

**MINUTES OF THE
1999.5 FALSE AND MISLEADING ADVERTISEMENT TASK FORCE
OF THE STRUCTURAL PEST CONTROL BOARD**

The meeting of the 1999.5 False and Misleading Advertisement Task Force was held at the office of the Structural Pest Control Board at 1418 Howe Avenue, Sacramento, CA on July 26, 2007.

Chairman Michael Katz called the meeting to order at 10:10 A.M.

Roll was called and a quorum established.

Task Force Members Present:

Michael Katz, Chairman
Robert Baker
Darrell Ennis
Curtis Good
Jonathan Kaplan (arrived at 10:20 A.M.)
Mark Rentz
Darren Van Steenwyk
Lee Whitmore

Legal Counsel Donald Chang and board staff Kelli Okuma and Dennis Patzer were present at the meeting.

Chairman Katz asked if there were any changes to the minutes. Discussion ensued.

Darrell Ennis made a motion that the minutes be adopted as written. Lee Whitmore seconded the motion. There was discussion. The minutes were adopted unanimously.

Staff reported to the task force that the proposed preamble language for 1999.5 that was adopted at the May 22, 2007, meeting was not rescinded when new proposed preamble language was adopted at the June 28, 2007, meeting.

Darrell Ennis made a motion that the adopted proposed preamble language at the May 22, 2007, meeting be rescinded. Curtis Good seconded the motion. There was discussion. The motion passed unanimously.

Chairman Katz stated that the last item the task force was working on at the June 28, 2007, meeting was amending subsection 1999.5(f)(14).

Darrell Ennis had made a motion to amend the existing language as follows:

(14) ~~claims that the pesticides and other substances the licensee applies, the applications of such pesticides, or any other use of them~~ a pesticide control service, method, product, pesticide, device, or combination thereof are comparatively safe or free from risk or harm unless the statement or representation can be substantiated within the meaning of CFR Title 16, 260.5

and is limited to the specific nature of the environmental or health benefit being asserted and is consistent with document X*.

*Document X to be a guidance document incorporated into regulation
Curtis Good had seconded the motion.

Chairman Katz asked if there was further discussion on the motion. During discussion regarding the motion a question arose about being more specific in the subsection regarding "document X" and replacing it with the verbiage "guidance document."

Darrell Ennis made a motion to amend his motion to include the language as follows:

(14) ~~claims that the pesticides and other substances the licensee applies, the applications of such pesticides, or any other use of them~~ a pesticide control service, method, product, pesticide, device, or combination thereof are comparatively safe or free from risk or harm unless the statement or representation can be substantiated within the meaning of CFR Title 16, 260.5 and is limited to the specific nature of the environmental or health benefit being asserted and is consistent with guidance document*.

*Guidance document to be incorporated into the regulation

Curtis Good seconded the motion. There was discussion. The motion passed unanimously.

Donald Chang said that Kurt Heppler legal counsel for the board had expressed a concern that language regarding the restriction of speech in subsection 1999.5(b) was too broad. Chang said that Heppler had prepared suggested language and he submitted it for task force consideration. Discussion ensued.

Cliff Utley made a motion to amend subsection 1999.5(b) to read as follows:

(a) As used in this section, the terms "make," "disseminate," "represent," "claim," "state," or "advertise" and any of their variants include, but are not limited to any print communications (for example, telephone directories, newspapers, magazines or other publications or books, notices, circulars, pamphlets, letters, handbills, posters, bills, signs, placards, cards, labels, tags, vehicle or equipment signage, window displays, or store signs), electronic communication (for example, radio, television, audio or video tape, telephone, or the internet), demonstration, direct person-to-person contact, or other means or methods now or hereafter employed to bring structural pest control services, methods, products, pesticides, or devices to the attention of the public for the purpose of requesting any work or services or for the direct or indirect purpose of performing or offering to perform services for which a license is required by section 8500 and following of the Code.

Darren Van Steenwyk seconded the motion. Pass unanimously.

Mark Rentz asked for a review and discussion of subsections of 1999.5 that were not recommended for amendment by the task force to assure that there was consistency

regarding subsections making reference to Code of Federal Regulations (CFR) section 260.5. Donald Chang agreed that the subsections should have continuity to avoid problems in the future. The task force reviewed the subsections and determined that no further recommendations for amendments be made.

Chairman Katz opened discussion regarding the development of a guidance document to be incorporated by reference into Title 16 of the California Code of Regulations.

Jonathan Kaplan submitted a document that incorporated comments from task force members. Kaplan compiled the written comments and they were provided to the task force members as a starting point for discussion. Examples of "Prohibited" and "Permitted" advertisement language were in the document. The task force discussed and modified the submitted document and developed a disclaimer for the guidance document. Chairman Katz directed staff to create a draft document including all items discussed that would be used at the next task force meeting.

Chairman Katz said that the next task force meeting should be held in September 2007. Jonathan Kaplan asked that the next task force meeting be held at the Nation Resource Defense Council office in San Francisco.

Chairman Katz scheduled the next meeting of the task force for September 5, 2007, from 10:00 A.M. to 2:00 P.M at the office of the Nation Resource Defense Council at 111 Sutter Street, 20th Floor, and San Francisco, CA.

The meeting adjourned at 2:45 P.M.

Minutes approved on 9-5-07

Michael Katz, Chairman