

**MINUTES OF THE MEETING OF THE
STRUCTURAL PEST CONTROL BOARD**

April 17, 2019

The Meeting Was Held April 17, 2019 At The Department Of Consumers Affairs,
Hearing Room, 2005 Evergreen Street, Sacramento, CA 95815

Board Members Present:

Darren Van Steenwyk, President
Dave Tamayo, Vice President
Mike Duran
Curtis Good

Board Members Absent:

Ronna Brand

Board Staff Present:

Susan Saylor, Executive Officer
David Skelton, Administrative Analyst

Departmental Staff Present:

Sabina Knight, Legal Counsel
Karen Nelson, Executive Office

ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Van Steenwyk called the meeting to order at 8:04 A.M. and Mr. Skelton called roll.

Board members Van Steenwyk, Tamayo, Duran, and Good were present.

Board member Brand was absent.

A quorum of the Structural Pest Control Board (SPCB) was established.

FLAG SALUTE / PLEDGE OF ALLEGIANCE

Mr. Van Steenwyk led everyone in a flag salute and recitation of the Pledge of Allegiance.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

There were no public comments for items not on the agenda.

PETITION FOR REINSTATEMENT
DAWN MARIE CHARRETTE – OPR 9119 – BRANCHES 1 & 3

Administrative Law Judge Marcie Larson sat with the SPCB to hear the Petition for Reinstatement of Dawn Marie Charrette, Operator License Number 9119. Ms. Charrette was informed she would be notified by mail of the SPCB's decision.

PETITION FOR REINSTATEMENT
JESUS DE LARA – FR 44208 – BRANCHES 2 & 3

Administrative Law Judge Marcie Larson sat with the SPCB to hear the Petition for Reinstatement of Jesus De Lara, Field Representative License Number 44208. Mr. De Lara was informed he would be notified by mail of the SPCB's decision.

CLOSED SESSION

Pursuant to subdivision (c)(3) of section 11126 of the Government Code the SPCB met in closed session to consider reinstatements, proposed disciplinary actions, and stipulated settlements.

Reconvene in Open Session

REVIEW AND APPROVAL OF MINUTES OF THE JANUARY 15 & 16, 2019 MEETING

Mr. Tamayo moved and Mr. Duran seconded to approve the Minutes of the January 15 & 16, 2019 meeting of the SPCB. Passed unanimously.
(AYES: VAN STEENWYK, TAMAYO, DURAN, GOOD. NOES: NONE. ABSTENTIONS: NONE.)

DISCUSSION AND POSSIBLE ACTION ON OCCUPATIONAL ANALYSIS FOR APPLICATORS

Ms. Saylor stated that the goal is to hold a stakeholder meeting for the Applicator Occupational Analysis in October 2019 to coincide with the Board Meeting. Ms. Saylor stated that all interested parties are welcome at the stakeholder meeting.

Chris Reardon, Pest Control Operators of California (PCOC), stated his support for the October 2019 stakeholder meeting and expressed optimism about the potential good that could result from holding it.

Mr. Van Steenwyk stated that the industry has been very excited for the opportunity to provide input about the Applicator examination and that he hoped for a large turnout at the stakeholder meeting.

Todd Veden, Terminix, stated his support for, and optimism about, the stakeholder meeting.

PRESENTATION AND POSSIBLE ACTION ON REGULATORY AMENDMENTS MANDATED BY ASSEMBLY BILL 2138 (CHIU) - CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 16, SECTIONS 1937.1, 1937.2 – SUBSTANTIAL RELATION CRITERIA AND REHABILITATION CRITERIA

Ms. Saylor stated that the proposed regulatory amendments are needed to implement the changes made by Assembly Bill 2138 (Chiu) as they relate to the SPCB's use of substantial relation and rehabilitation criteria in licensing decisions.

Mr. Duran moved and Mr. Good seconded to approve the proposed text for a 45 day public comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period and to follow established procedures and processes in doing so and also to delegate to the executive officer the authority to make any technical and non-substantive changes that may be required in completing the rulemaking file. Passed unanimously. (AYES: VAN STEENWYK, TAMAYO, DURAN, GOOD. NOES: NONE. ABSTENTIONS: NONE.)

EXECUTIVE OFFICER'S REPORT

Ms. Saylor updated the SPCB on licensing, enforcement, examination, and wood destroying organisms (WDO) statistics, survey results, and examination development.

Mr. Van Steenwyk stated that the examination passing rates for Applicators and Field Representatives are up from last year and that the industry appreciates the ability to get new employees licensed and into the field faster.

Ms. Saylor stated that Kevin Lau and Maria Perez recently left the complaint unit and that Rachel Stora was promoted, and Hollie Glasner hired, to fill those positions and they are expected to start May 1, 2019.

Ms. Saylor stated that a job offer has been made to fill the long vacant Applicator licensing desk and that the individual should be able to start around May 1, 2019.

Ms. Saylor stated that Jeff Marang would also be starting around May 1, 2019 as the newest SPCB Enforcement Specialist and that the southern California Enforcement Specialist position would not be filled for the time being. Ms. Saylor further stated that more interviews would be conducted soon for the southern California Enforcement Specialist position.

Ms. Saylor updated the Board on the Branch 1 workshop that was held March 28 & 29, 2019 at Mr. Good's office. Ms. Saylor stated that it was still difficult to get industry participation and asked for help getting the word out for future surveys and workshops.

Mr. Good stated that Branch 1 workshops should ideally be held in the winter because spring and summer is their busiest time.

Mr. Reardon stated that PCOC will actively work with the SPCB on securing locations and licensees for future workshops.

Mr. Good stated that when possible future workshops should be timed to coincide with PCOC meetings to take advantage of the industry expertise in attendance.

Ms. Saylor stated that she would work with Office of Professional Examination Services (OPES) on trying to coordinate workshops to coincide with PCOC meetings.

UPDATE ON THE STATUS OF THE RESEARCH PROPOSALS SELECTED FOR FUNDING AT THE JULY 26, 2018 BOARD MEETING

Ms. Saylor stated that the materials included in the Board packages are updates on where the researchers are with their respective projects and what invoices have been submitted thus far.

Mr. Van Steenwyk stated that the researchers first official progress reports are due by the end of April 2019 and would likely be included in the Board materials for the July 2019 meeting.

DISCUSSION AND POSSIBLE ACTION ON THE STRUCTURAL PEST CONTROL BOARD'S COMPLIANCE WITH U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) PESTICIDE APPLICATOR REGULATIONS

Mr. Van Steenwyk stated that the Department of Pesticide Regulation (DPR) is the state lead agency responsible for ensuring that the SPCB is in compliance with Federal EPA Applicator regulations.

Ms. Saylor stated that she has been working with DPR in determining what changes are needed for the SPCB to be fully compliant with the EPA Applicator regulations and that the SPCB's official response is due in September, 2019.

Leslie Talpasanu, DPR, addressed the SPCB and explained the EPA's timeline and expectations for state compliance with federal regulations. Ms. Talpasanu stated that DPR must submit California's plan by March, 2020 and that the EPA has 2 years from that point to approve the plan.

Mr. Tamayo expressed concern about the SPCB's ability to navigate the legislative and rulemaking process in a timely enough manner to comply with the EPA's timeline.

Ms. Talpasanu stated that after the plan is submitted the process of implementation can occur simultaneously with the approval process.

DISCUSSION OF THE BOARD'S ANNUAL BUDGET AND POSSIBLE ACTION REGARDING WDO FILING FEE INCREASE: BUSINESS AND PROFESSIONS CODE (BPC) SECTION 8674 AND CCR, TITLE 16, SECTION 1997

Marie Reyes, DCA Budget Analyst, stated that current budget projections show the SPCB's expenditures exceeding its revenue and its budget reserve being completely depleted by Fiscal

Year (FY) 2019-2020. Ms. Reyes recommended that the SPCB increase its WDO Inspection Reporting Fee from \$3.00 per property address reported, to \$4.00 per property address reported.

Ms. Saylor stated that the previous WDO Inspection Reporting Fee increase was from \$2.50 per property address reported, to \$3.00 per property address reported, because the statutory maximum at the time was \$3.00. Ms. Saylor further stated that the statutory maximum was increased from \$3.00 to \$5.00 in the SPCB's 2018 Sunset Bill.

Ms. Saylor stated that costs have increased significantly across several core areas including Deputy Attorney General (DAG) costs, Office of Administrative Hearings (OAH) costs, and DCA Pro-Rata costs. Ms. Saylor further stated that the SPCB is in the process of updating its computer systems which will also carry significant costs.

Mr. Good asked what percentage of the SPCB's enforcement activity is related to Branch 3 activity since the Branch 3 companies will bear the brunt of the proposed WDO Inspection Reporting Fee increase.

Ms. Saylor stated that approximately 90% of the SPCB's enforcement action is related to Branch 3 activity.

Mr. Good stated his concern that there are Branch 3 companies who are not complying with the law and reporting their WDO activities.

Ms. Saylor stated that SPCB staff is focused on ensuring compliance with the WDO Inspection Reporting law. Ms. Saylor stated that the WDO database is continuously monitored and that SPCB's Enforcement Specialists are regularly dispatched to perform office records checks.

Mr. Reardon stated that the industry wants to be responsible stewards and ensure the SPCB has a sustainable operating budget while also seeing that the fees it pays are used prudently.

Mr. Veden stated that Branch 3 businesses would bear the brunt of the WDO Inspection Reporting Fee being increased and that in his opinion the impact should be absorbed across the pest control industry. Mr. Veden suggested, as an alternative, that fees for licensing and renewal applications could be increased.

Ms. Knight stated that the SPCB would not be voting at this meeting because there is no regulatory language to vote on.

Mr. Skelton stated that staff would prepare language for the SPCB to vote on at a future teleconference meeting.

Mr. Good asked that staff provide a more detailed summary of the SPCB's spending at the teleconference meeting.

DISCUSSION AND POSSIBLE ACTION ON OFFICE OF PROFESSIONAL EXAMINATION SERVICES (OPES) RECOMMENDATION TO ELIMINATE CONTINUING EDUCATION CHALLENGE EXAMINATIONS - BPC SECTIONS 8593 AND 8593.1 - CCR, TITLE 16, SECTIONS 1948 AND 1951

Ms. Saylor stated that OPES has recommended the SPCB eliminate its continuing education challenge examination.

Ms. Saylor stated that it is difficult for staff to ensure examination security and comply with testing protocols when administering the challenge examination.

Mr. Good stated that it does not serve the SPCB licensing population to offer an outdated examination and with so few people utilizing the challenge exam it is not cost effective for the SPCB to ask OPES to create a new one.

Mr. Duran moved and Mr. Tamayo seconded to eliminate the SPCB's challenge examinations in statute (BPC sections 8593 and 8593.1) and to give authority to the executive office to pursue those changes legislatively. Passed unanimously.
(AYES: VAN STEENWYK, TAMAYO, DURAN, GOOD. NOES: NONE. ABSTENTIONS: NONE.)

Mr. Tamayo moved and Mr. Van Steenwyk seconded to approve the proposed text (CCR, Title 16, sections 1948 and 1951) for a 45 day public comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period and to follow established procedures and processes in doing so and also to delegate to the executive officer the authority to make any technical and non-substantive changes that may be required in completing the rulemaking file. Passed unanimously.
(AYES: VAN STEENWYK, TAMAYO, DURAN, GOOD. NOES: NONE. ABSTENTIONS: NONE.)

REGULATIONS UPDATE AND POSSIBLE ACTION - CCR, TITLE 16, SECTIONS 1950, 1950.5, 1953 – CONTINUING EDUCATION - CCR, TITLE 16, SECTION 1997 – WDO INSPECTION AND COMPLETION ACTIVITY FEE

Mr. Skelton stated that he is scheduled to meet with DPR on May 15, 2019 to discuss the EPA Applicator regulations and how they pertain to the SPCB's proposed changes to its continuing education program.

Mr. Van Steenwyk asked Mr. Skelton to get DPR's input prior to the May 15, 2019 meeting if it were possible to do so.

Mr. Van Steenwyk stated that the amendments to CCR section 1970.4 would be very beneficial to both consumers and the pest control industry and asked that they be implemented as soon as possible.

LEGISLATION UPDATE AND POSSIBLE ACTION

Assembly Bill 193 (Patterson)

Ms. Knight stated that AB 193 would require boards to conduct a comprehensive review of their licensing requirements and thereafter would require boards to submit a report detailing their plans to facilitate license portability for members of the armed services.

Mr. Van Steenwyk stated that the SPCB would continue to watch AB 193.

Assembly Bill 434 (Baker)

Ms. Saylor stated that AB 434 went into effect January 1, 2019 and requires the SPCB's website to fully compliant with the Americans With Disabilities Act (ADA) by July 1, 2020.

Mr. Skelton stated that everything posted on the SPCB's website must be able to be read by text recognition software. Mr. Skelton stated that in order for scanned documents to be posted they must be posted along with a version of the document that can be read by text recognition software.

Mr. Tamayo asked if this would limit the public's access to previously available documents.

Mr. Skelton stated that DCA is working diligently to ensure that all necessary documents continue to be posted in an ADA compliant manner.

Assembly Bill 613 (Low)

Ms. Knight stated that AB 613 would give boards the ability to increase their fees once every 4 years in proportion to the Consumer Price Index (CPI). Ms. Knight stated that this increase would occur outside of the regulatory process and would be subject to the approval of the Director of DCA.

Mr. Tamayo asked if this type of fee increase would be subject to statutory fee maximums.

Mr. Skelton stated that fee increases made pursuant to AB 613 would not be subject to statutory fee maximums. Mr. Skelton further stated that the author's office was considering holding a stakeholder meeting and that more information would potentially be available in the coming weeks.

Mr. Tamayo stated that his support for the concept of this type of fee increase provided the regulated public still had an opportunity to provide input.

Mr. Van Steenwyk stated that the SPCB would continue to watch AB 613.

Assembly Bill 1024 (Frazier)

Mr. Van Steenwyk stated that AB 1024 proposes to license home inspectors under the Contractors State License Board (CSLB) but at this time it is unclear whether the bill will be moving forward.

Assembly Bill 1788 (Bloom)

Mr. Van Steenwyk stated that AB 1788 proposes to ban specified anti-coagulant rodenticides and suggested the SPCB take an oppose position as it done in the past when similar bills were introduced. Mr. Van Steenwyk further stated that the SPCB has just funded a \$350,000 research project in an effort to identify how anti-coagulant rodenticides are contaminating non-target wildlife.

Mr. Van Steenwyk moved and Mr. Good seconded for the SPCB to take an oppose position on Assembly Bill 1788 because the SPCB is currently funding research to better understand the pathways of anti-coagulant rodenticides into non-target wildlife. Passed unanimously.

(AYES: VAN STEENWYK, TAMAYO, DURAN, GOOD. NOES: NONE. ABSTENTIONS: NONE.)

Mr. Reardon stated that in addition to the research being funded by the SPCB, DPR has begun the process of re-evaluating anti-coagulant rodenticides. Mr. Reardon further stated that the process in California is for DPR to continuously evaluate pesticides and that AB 1788 is proposing to ban anti-coagulant rodenticides before that process has occurred.

Senate Bill 53 (Wilk)

Ms. Knight stated that SB 53 would make 2 member committees subject to the provisions of the Bagley Keene Open Meetings Act.

Mr. Tamayo stated that SB 53 is unnecessarily restrictive and there is a public benefit for 2 board members to have the ability to discuss board related issues.

Mr. Tamayo moved and Mr. Good seconded for the SPCB to take an oppose position to the SB 53. Passed unanimously.

(AYES: VAN STEENWYK, TAMAYO, DURAN, GOOD. NOES: NONE. ABSTENTIONS: NONE.)

FUTURE AGENDA ITEMS

The following were identified as future agenda items:

SPCB compliance with EPA Applicator Regulations

Legislation – AB 193, AB 434, AB 613, AB 1788, SB 53

Regulations – CCR, Title 16, Sections 1950, 1950.5, 1953, 1970.4, 1997

BOARD CALENDAR

The next 4 meetings of the SPCB were scheduled as follows:

May 14, 2019 Teleconference Meeting

July 17, 2019 in Southern California

October 23 & 24, 2019 in Sacramento

March 11 & 12, 2020 in Sacramento

ADJOURNMENT

The meeting was adjourned at 12:39 P.M.

Darren Van Steenwyk, President

Date