

MINUTES OF THE MEETING OF THE STRUCTURAL PEST CONTROL BOARD

October 23 & 24, 2019

The meeting was held October 23 & 24, 2019 at the Department of Consumer Affairs,
Hearing Room, 2005 Evergreen Street, Sacramento, California

Board Members Present:

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

Board Members Absent:

None

Board Staff Present:

Susan Saylor, Executive Officer
Robert Lucas, Assistant Executive Officer
Kathy Boyle, Chief Enforcement Officer
David Skelton, Administrative Analyst

Departmental Staff Present:

Sabina Knight, Legal Counsel

October 23, 2019 — 1:00 P.M.

ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Van Steenwyk called the meeting to order at 1:14 P.M. and Mr. Skelton called roll.

Mr. Van Steenwyk, Mr. Tamayo, Ms. Brand, and Mr. Good were present.

Mr. Duran 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 MODIFICATON / TERMINATION OF PROBATION
EDWARD CHARLES MUNOZ III — OPR 11978 — BRANCH 2**

Administrative Law Judge Wim van Rooyen sat with the SPCB to hear the Petition for Modification/Termination of Probation for Edward Charles Munoz III, Operator License Number 11978. Mr. Munoz was informed that he would be notified by mail of the SPCB's decision.

Mr. Duran arrived at 2:31 P.M.

**PETITION FOR MODIFICATION / TERMINATION OF PROBATION
EDWARD G. HERNANDEZ — OPR 11475 — BRANCH 2**

Administrative Law Judge Wim van Rooyen sat with the SPCB to hear the Petition for Modification/Termination of Probation for Edward G. Hernandez, Operator License Number 11475. Mr. Hernandez was informed that he would be notified by mail of the SPCB's decision.

**PETITION FOR REINSTATEMENT
GERALD WAYNE FINLEY II — FR 32663 — BRANCHES 1 & 3**

Administrative Law Judge Wim van Rooyen sat with the SPCB to hear the Petition for Reinstatement for Gerald Wayne Finley II, Field Representative License Number 32663. Mr. Finley was informed that 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.

THE SPCB RECONVENED IN OPEN SESSION AND ADJOURNED AT 4:38 P.M.

October 24, 2019 — 9:00 A.M.

ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Van Steenwyk called the meeting to order at 9:02 A.M. and Ms. Saylor called roll.

Mr. Van Steenwyk, Mr. Tamayo, Ms. Brand, Mr. Duran, and Mr. Good were present.

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.

REVIEW AND APPROVAL OF MINUTES OF THE JULY 17, 2019 BOARD MEETING

Mr. Duran moved and Mr. Good seconded to approved the Minutes of the July 17, 2019 meeting of the SPCB. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good. NOES: None. ABSTENTIONS: None.)

DEPARTMENT OF PESTICIDE REGULATION (DPR) UPDATE

Peggy Byerly, DPR, stated that on October 14, 2019 Governor Newsom announced the appointment of Val Dolcini as Director of DPR and Jesse Cuevas as Chief Deputy Director of DPR.

Ms. Byerly also updated the SPCB on the structural enforcement training held in Irvine, California from October 1-3, 2019. Ms. Byerly stated that there were 94 attendees including 66 enforcement staff from 17 counties. Ms. Byerly thanked Mr. Good and Newport Exterminating for their participation in Branch 2 training exercises and Lee Whitmore and Quality Pest Services for their participation in Branch 1 training exercises.

Karey Windbiel-Rojas, University of California Statewide Integrated Pest Management Program, asked Ms. Byerly how often the structural training occurs.

Ms. Byerly stated that the training occurs approximately once a year and it rotates between northern and southern California.

EXECUTIVE OFFICER'S REPORT

Ms. Saylor updated the SPCB on licensing, enforcement, examination, and wood destroying organism (WDO) statistics.

Mr. Good stated that the Applicator passing rate improved significantly and asked if there was something contributing to the improvement.

Ms. Saylor stated that there are multiple factors — the examination being out for a while creates familiarity with the subject matter as well as companies implementing more comprehensive Applicator training programs.

Mr. Van Steenwyk stated that the Field Representative and Operator passing rates also improved and asked if a contributing factor is the Office of Professional Examination Services (OPES) removing poorly performing questions.

Ms. Saylor stated that OPES has been doing a great job of monitoring all the examinations and removing and reworking questions that consistently underperform.

Ms. Saylor stated that the Branch 1 Occupational Analysis workshop will be held at Newport Exterminating November 5-7, 2019 and more participants are still needed. Ms. Saylor asked the industry for help in getting the word out.

Chris Reardon, Pest Control Operators of California (PCOC), stated that he will be working with PCOC membership, and Ms. Saylor, to encourage participation in the Branch 1 Occupational Analysis.

Mr. Good stated that he wanted to thank Frank Munoz at the SPCB's Operator Licensing desk for consistent excellent job performance.

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

Ms. Saylor stated that official research proposal progress reports are due by the end of October 2019 and would be included in the March 2020 SPCB meeting materials.

Mr. Tamayo asked if there is any update on the progress of Dr. Niamh Quinn's "Investigation of Rodenticide Pathways in an Urban System Through the Use of Isotopically Labelled Bait" research project.

Mr. Van Steenwyk stated that he has spoken to Dr. Quinn and she is in the process of acquiring the necessary permits to begin her research.

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

Leslie Talpasanu, DPR, stated that she has been working with SPCB staff on ensuring compliance with the United States Environmental Protection Agency (EPA) applicator certification and training requirements.

Ms. Talpasanu stated that SPCB staff has provided her with all the necessary information and she is on track to submit the California state plan by March 4, 2020. Ms. Talpasanu further stated that after the state plan is submitted the EPA has two years to review and approve it.

Ms. Talpasanu stated that the most significant changes that are expected to result from compliance with EPA certification and training requirements are related to identity verification during the continuing education process.

Mr. Van Steenwyk asked if there are any other areas of concern for the SPCB to comply with EPA requirements.

Ms. Talpasanu stated that other than the continuing education changes that are expected to occur the SPCB appeared largely to be in compliance with the EPA requirements.

Mr. Van Steenwyk asked what the expected timeline is for implementation of any changes that may occur.

Ms. Talpasanu stated that the goal is for any changes to become effective by April 1, 2022 when the state plan is officially approved.

ANNUAL REVIEW AND POSSIBLE ACTION REGARDING THE BOARD'S RESEARCH FUND

Ms. Saylor referred the SPCB members to the research fund forecast included in the meeting materials and stated that current projections anticipate sufficient funds being available to begin soliciting research projects in 2021.

Mr. Tamayo stated that the SPCB should begin preparing its internal procedures in 2020 in advance of sufficient funds being available to streamline the solicitation and selection process.

Mr. Good stated that it would be helpful to see the results of the ongoing research projects before considering new research projects for funding.

ANNUAL REVIEW AND POSSIBLE ACTION REGARDING THE BOARD'S POLICIES AND PROCEDURES

Ms. Saylor stated that a review of the SPCB's Policies and Procedures occurs annually at the October meeting and presented two staff recommended amendments.

Ms. Saylor presented a staff recommendation to amend SPCB Policy G-5 to extend the timeline for Board meeting minutes to be completed from 30 days after a meeting to either 60, or 90 days after a meeting. Ms. Saylor stated that 30 days is a quick turnaround for SPCB staff to complete the minutes and that the webcast is publicly available immediately after a meeting.

Mr. Tamayo stated that in the interest of transparency his preference is that the minutes be completed within 60 days.

Mr. Tamayo moved and Mr. Good seconded to amend SPCB Policy G-5 to state that board meeting minutes shall be completed within 60 days after a meeting. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good. NOES: None. ABSTENTIONS: None.)

Ms. Saylor presented a staff recommendation to add SPCB Policy L-7 to establish guidelines governing continuing education audits.

Mr. Good moved and Mr. Duran seconded to add SPCB Policy L-7 to state that the SPCB may conduct continuing education audits at its discretion, up to 3% of the license renewals received under each license category, and that it may conduct additional audits, at its discretion, as deemed necessary. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good. NOES: None. ABSTENTIONS: None.)

PRESENTATION AND POSSIBLE ACTION ON STATUTORY AMENDMENT TO BUSINESS AND PROFESSIONS CODE (BPC) SECTION 8506.1 – COMPANY REGISTRATIONS

This agenda item was held over for discussion at a future meeting.

REGULATIONS DISCUSSION, POSSIBLE ACTION, AND UPDATE

California Code of Regulations (CCR), Title 16, Section 1970.4, 1970.41, 1970.42 – Pesticide Disclosure Requirements

Ms. Knight presented the proposed additions and amendments to 16 CCR 1970.4, 1970.41, and 1970.42 (included in meeting materials) to the SPCB.

Mr. Van Steenwyk stated that it would be preferable to give PCOC and other interested parties an opportunity to review the proposed language before the SPCB voted on adopting it.

Mr. Tamayo asked what the reasoning is for using “must” instead of “shall” in the proposed language.

Nathan Desjarlais, DPR, stated that the preference for using “must” instead of “shall” is due to a U.S. Supreme Court decision.

Mr. Tamayo asked what the rationale was in 16 CCR 1970.41(a) for giving the owner, or the owner’s designated agent, an option to object to posting the pesticide notification in a conspicuous place.

Ms. Boyle stated that option to object to posting the pesticide notification in a conspicuous place is specifically for commercial or industrial structures and matches the language that is used in Business and Professions Code (BPC) section 8538.

Ms. Knight stated that the proposed language will be posted on the SPCB’s website and that any feedback or contributions will be considered and possibly incorporated before a possible vote at the March 2020 meeting.

Mr. Van Steenwyk stated that the industry appreciates the option to communicate with its customers via electronic mail and voiced his support for that addition.

Mr. Reardon stated that the industry would be actively working with SPCB legal counsel and staff on refining the proposed language before the March 2020 meeting.

Ms. Boyle stated that in addition to the changes presented in the proposed language, Form 43M-48, the Occupants Fumigation Notice (OFN) will also be amended in a manner consistent with the amendments that are adopted. Ms. Boyle stated that the proposed amendments to the OFN will also be presented at the March 2020 meeting.

Michelle Thom, Santa Clara County Agricultural Commissioner, stated that the counties were generally in agreement with the proposed changes for post-application notices but wanted to emphasize how important it is for written pre-application notices to be provided to tenants. Ms. Thom stated that electronic pre-application notices can be provided to owners but for tenants it is important that a written notice be provided.

Mr. Van Steenwyk asked if tenants can opt to receive electronic pre-application notice.

Ms. Thom stated that for tenants, the pre-application notice needs be written to ensure that tenants are properly informed when the inside of their home is going to be treated.

Mr. Van Steenwyk stated that the proposed language will be posted on the SPCB's website for all interested parties to view and comment on before a possible vote at the March 2020 meeting.

CCR, Title 16, Section 1997 – WDO Emergency Fee Increase Certificate of Compliance

Ms. Saylor stated that the emergency rulemaking raising the WDO Inspection Reporting Fee from \$3.00 to \$4.00 per property address reported, was approved by the Office of Administrative Law (OAL) on August 23, 2019 and will expire February 18, 2020.

Ms. Saylor stated that SPCB staff is in the process of permanently adopting the emergency rulemaking and the package is currently in review at the DCA budget office.

CCR, Title 16, Section 1936, 1936.1, 1936.2, 1937.1, 1937.2 – AB 2138 Compliance

Mr. Skelton stated that the AB 2138 compliance rulemaking file is currently in review at the DCA budget office and will be moving forward shortly.

LEGISLATION UPDATE AND POSSIBLE ACTION

Assembly Bill 613 (Low) – Professions & Vocations: Regulatory Fees

Ms. Saylor stated that the hearings for AB 613 were cancelled and the bill would possibly be back in the next legislative session.

Assembly Bill 1788 (Bloom) – Pesticides: Use of Anti-Coagulants

Mr. Van Steenwyk stated that AB 1788 was placed in the suspense file.

Senate Bill 53 (Wilk) – Open Meetings

Ms. Saylor stated that SB 53 was placed in the suspense file.

ANNUAL ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT

Mr. Tamayo moved and Mr. Van Steenwyk seconded to nominate Mr. Good for SPCB President. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good. NOES: None. ABSTENTIONS: None.)

Mr. Van Steenwyk moved and Mr. Good seconded to nominate Mr. Tamayo for SPCB Vice President. Passed unanimously.

(AYES: Van Steenwyk, Tamayo, Brand, Duran, Good. NOES: None. ABSTENTIONS: None.)

FUTURE AGENDA ITEMS

The following items were identified as future agenda items —

Proposed language and possible vote for 16 CCR 1970.4, 1970.41, and 1970.42.

BOARD CALENDAR

The SPCB scheduled its upcoming meetings as follows —

March 11 & 12, 2020 in Sacramento

July 7 & 8, 2020 in Los Angeles

October 20 & 21, 2020 in Sacramento

CLOSED SESSION

Pursuant to subdivision (a)(1) of section 11126 of the Government Code the SPCB met in closed session to conduct the Executive Officer's performance review.

ADJOURNMENT

The meeting was adjourned at 10:30 A.M.

Signature on File

March 12, 2020

Curtis Good, President

Date