



# Structural Pest Control Board Meeting Minutes

October 10, 2023

**Location:**

Department of Consumer Affairs – Hearing Room (1st Floor)  
1625 North Market Boulevard  
Sacramento, CA 95834

**Board Members Present:**

Kyle Finley, Board President  
Yessenia Anderson, Board Vice President  
Mark Paxson  
John Tengan

**Board Members Absent:**

Ankur Bindal  
Janet Thrasher

**Board Staff Present:**

Sophia Azar, Executive Officer  
Melissa Zanetta, Chief of Licensing & Administration  
Kathleen Boyle, Chief of Enforcement  
Melissa Sowers-Roberts, Disciplinary Specialist  
Heather Jackson, Regulation & Legislation Specialist

**Departmental Staff Present:**

Sabina Knight, DCA Legal Counsel

**Agenda Item 1. Roll Call / Establishment of Quorum**

The Structural Pest Control Board (Board) meeting was called to order by President Finley at 9:03 a.m. and Executive Officer (EO) Azar called roll.

President Finley, along with Vice President Anderson, Board members Paxson and Tengan were present. Board members Bindal and Thrasher were absent.

A quorum of the Board was established.

**Agenda Item 2. Flag Salute / Pledge of Allegiance**

President Finley led everyone in a flag salute and recitation of the Pledge of Allegiance.

**Agenda Item 3. Public Comment for Items Not on the Agenda**

No public comments.

**Agenda Item 4. Petition for Reinstatement**

**Bernard M. Garcia – FR 47991 – Branch 3 & RA 52952 – Branch 2**

An Administrative Law Judge and Deputy Attorney General appeared with the Board to hear Mr. Bernard M. Garcia’s petition. After much discussion, Mr. Garcia was informed he would be notified by mail of the Board’s decision.

**Agenda Item 5. Petition for Reinstatement**

**Daniel Ray Smith – FR 35981 – Branch 2**

An Administrative Law Judge and Deputy Attorney General appeared with the Board to hear Mr. Daniel Ray Smith's petition. After much discussion, Mr. Smith was informed he would be notified by mail of the Board's decision.

**CLOSED SESSION**

The Board entered closed session at 11:37 a.m.

**Agenda Item 6.**

Pursuant to Government Code section 11126(c)(3) the Board met in closed session to discuss and take action on disciplinary matters, including the above petitions.

**Agenda Item 7.**

Pursuant to Government Code section 11126(a)(1) the Board met in closed session to conduct the annual performance evaluation and consider the salary of its Executive Officer.

**Agenda Item 9. Discussion and Possible Approval of the June 28-29, 2023, SPCB Meeting Minutes**

Board Vice President **Anderson moved**, and Board member **Paxson seconded** the motion to approve the minutes of the June 28-29, 2023, Structural Pest Control Board meeting.

No Board or public comments.

*Motion carried 4-0 by roll call vote.*

**Agenda Item 10. California Department of Pesticide Regulation Update**

Nathan Desjarlais, Department of Pesticide Regulation (DPR), provided the Board an update on the Structural Regulatory Training, rulemaking regarding Handler Decontamination Facilities and Certification and Training as it relates to SPCB licensees, and EPA's sulfuryl fluoride residential fumigation mitigation measures and enforcement efforts.

**Agenda Item 11. Executive Officer's Report**

EO Azar provided the Board with an update on the new Applicator Examination and plan to update the reference lists included in the examination candidate handbooks. She also reported Board staff is currently working with DCA's Office of Professional Examination Services (OPES) to develop a new Operator Branch 3 examination and explained a key component of the examination development process is Subject Matter Experts (SMEs), encouraged any qualified licensed Branch 3 Operators to apply with the Board (Email [SPCBworkshops@dca.ca.gov](mailto:SPCBworkshops@dca.ca.gov)) to become an SME and assist with the examination development process, and detailed some of the benefits of participation.

EO Azar reported OPES recently ran statistics for the new Field Representative Branch 2 and 3 examinations for August and September of 2023. The statistics show both examinations

performing very well, with a pass rate of about 80% (Field Representative Branch 2) and 65% (Field Representative Branch 3). Whereas prior examination pass rates reflected 65% (Field Representative Branch 2) and 45% (Field Representative Branch 3).

***(a) Staffing Update***

EO Azar provided a staffing update for the Board. She reported on the Board's current recruitments efforts for a Structural Pest Control Board Specialist vacancy in Southern California, targeting mid-November for interviews and hoping to complete the hiring process and onboarding by December 2023/January 2024 timeframe. She also announced Alicia Vaupotic and Rachael Jordan were both recently promoted within the Board.

***(b) Budget Update***

The Board was referred to the meeting materials for detailed revenue and expenditure reports. EO Azar reported the Board's expenses for the year were approximately \$5.9 million. She reported the Board began the new fiscal year (2023/24) with a fund balance of \$3.1 million and anticipates revenue of approximately \$6.6 million. The Board's full expenditure allocation is \$7.6, but EO Azar explained historically, the Board has only spent about 80% of their appropriation, about \$1 million less than allocated.

Board member Paxson asked if there are budget projections that support the expectation of spending \$1 million less than appropriated. EO Azar assured the Board she doesn't anticipate anything out of the ordinary with regard to expenditures for the coming year. She explained the Board will be undergoing a workload analysis to quantify position needs and suggested the Board's fees, increases may be considered in the future. Board member Paxson requested that EO Azar keep the Board regularly informed, particularly if there are any unexpected expenditures that may appear to exceed the provided fund condition projections.

***(c) 2023-2028 Strategic Plan Update***

EO Azar reported that in September 2022, Governor Newsom signed an executive order to strengthen the State's commitment to a "California For All" which directed state agencies and departments to take additional actions to embed equity analysis and considerations into its policies and practices, including but not limited to the strategic planning process. To ensure compliance with the Governor's mandate, DCA's SOLID program will assist the Board with conducting an abbreviated environmental scan and analysis with a focus on Diversity, Equity, and Inclusion (DEI) for consideration in regard to our existing plan and objectives. She reported SOLID hopes to present to the Board members early next year the results of the environmental scan and work with the members on incorporating DEI into the Board's existing Strategic Plan.

EO Azar also reported on the status of the Board's current Strategic Plan and referred to the meeting materials to review the status for each goal area and objective. She reported an average progress increase of 15% for all goal areas and expressed gratitude for Board staff's efforts toward reaching these goals.

President Finley requested a more detailed report for future reporting on the Strategic Plan. EO Azar will provide details on each objective in her next monthly EO report and future Board meetings.

### **Agenda Item 12. Licensing Update**

Melissa Zanetta provided the Board with an update on the Board's licensing statistics and directed attention to the materials for additional information. She reported the Board renewed a total of 6,013 licenses this year, and 3,222 licenses were canceled for non-renewal. She also explained the licensing surveys were not included in the materials for this meeting because the Board is working to modernize the process to a virtual survey as opposed to mailed hard copy survey cards. She explained the hope is the new format will increase participation.

During the last Board meeting, the Board requested additional information regarding qualifying managers (QMs) and their roles and responsibilities, specifically, those who live out of state. Ms. Zanetta provided the Board some additional background including the licensing unit's internal process for ensuring the QM's proximity to their office is not a hinderance to their ability to fulfill their role and oversee the day-to-day operations of the business.

President Finley asked about the process and frequency of requests for written plans described in the memo. Ms. Zanetta further explained Board staff's process in coordinating with field specialists for planned check-ins to ensure QMs are fulfilling their duties. She further explained the frequency is determined on a case-by-case basis, based on need and discretion.

President Finley recommended additional outreach be done to contact licensees who may be renting out their license for companies to use as a QM without ensuring actual oversight into the day-to-day activities to let them know about the legalities and responsibilities of doing such.

President Finley inquired about future possibilities of the Board moving toward allowing a more remote option for QMs, what that would look like for industry, and if it should be considered. Board Specialist, Tom Ineichen, stated the tasks required of the QMs are not typically able to be handled remotely. Board member Paxson acknowledged if the Board does decide to pursue changes detailed in the materials, there would be a need for legislation and not simply internal procedure or regulatory changes.

Board member Tengan emphasized the importance of direct oversight of QMs and cited the following examples of typical tasks necessary for in-person interactions: certifying experience, understanding and involvement in daily business, and ensuring worker protection standards. He suggested the Board consider adding some accountability measures and requirements at renewal. Vice President Anderson inquired about citation or fines associated with non-compliance. Ms. Zanetta provided additional information about the Board's office records check and order of abatement options in cases of non-compliance. Board member Tengan suggested the Board look into requirements of other states when considering possible changes to the QM requirements.

### **Public Comment**

Darren Van Steenwyk, Sprague Pest Solutions, stated he was part of the effort to address absent QMs through legislation and suggested the Board consider the effect that electronic signatures may have on future absenteeism. He also reiterated the QM is responsible and should be held accountable for compliance with all aspects of the law.

Todd Veden, Terminix Qualifying Manager, echoed Mr. Van Steenwyk's sentiments about the goal of amending BPC section 8506.2 ([Amended by Stats. 2016, Ch. 181, Sec. 1. \(AB 1874\) Effective January 1, 2017.](#)) was to address QM absenteeism and prevent licensees from being able to display their license at a company location and not actually participate in the daily operations as necessary. He inquired about the Board's interpretation of the appropriate documentation to satisfy the requirement and suggested the Board consider clarifying the requirements. He also suggested one way to ensure QMs are not living out of the state would be to add verbiage to the effect of "resident of the state" to BPC section 8610(c).

### **Agenda Item 13. Enforcement Update**

Kathleen Boyle provided the Board with an update on the Board's enforcement statistics and directed the Board's attention to the materials for additional information.

President Finley inquired about the 29% increase on the convictions arrests received year over year. EO Azar explained that number is the total number of the arrest reports received for either applicants at licensure or subsequent arrest reports for current licensees. She explained the increasing number does not reflect anything the Board is taking action on. President Finley asked, and EO Azar confirmed, that number simply reflects an increasing number of licensees getting arrested. EO Azar also provided additional background on revisions made to the Q2 and Q3 sections of the statistical report.

### **Agenda Item 14. Legislative Update**

Heather Jackson provided an update on the status of legislation that either affects the Board, has an impact on the pest control industry, or has department-wide impact and may affect the Board or its operations.

Ms. Jackson stated the deadline for the Governor to sign or veto bills is quickly approaching and confirmed the Board will receive a final legislative update in the next monthly EO report. She also confirmed plans to utilize the newsletter (Quarterly SPIN) to communicate the final legislative status to the industry and consumers.

Board member Paxson requested information on how the new Bagley-Keene Open Meeting Act will impact future Board meetings. EO Azar stated the Department's Legal Affairs Office provided her with a summary of the new requirements and agreed to share that information to the Board members in the next monthly EO report.

### **Agenda Item 15. Rulemaking Report**

Ms. Jackson provided the following status updates on three regulation packages, requesting Board action on one:

- **Item 15b – Update regarding Regulatory Proposals for Disciplinary Guidelines (Amend Title 16 CCR, section 1937.11) and Pesticide Application Notice Requirements (Amend Title 16 CCR, section 1970.4, and add sections 1970.41, 1970.42, and 1970.43)**

Ms. Jackson presented an update on the Board's pending regulatory efforts that do not require action and referred the Board to the attached Rulemaking Update document in the meeting materials.

Board staff is in the process of reviewing the current Disciplinary Guidelines to provide the review workgroup with a proposal. She said they expect to have a proposal for the Board's review next summer (2024).

The Pesticide Application Notice regulation continues to progress through the rulemaking process. She reported the package is pending Agency review and approval and once approval is obtained, the package can be filed with the Office of Administrative Law at which time the 45-day comment period will open.

- **Item 15a – Review, Discussion, and Possible Approval to Begin the Rulemaking Process and to Adopt Regulations on Regulatory Proposal Regarding Fumigation & Pesticide Use Standards & Record Requirements (Amend Title 16, California Code of Regulations (CCR), section 1970)**

Ms. Jackson presented the Board's regulatory effort to comply with the U.S. Environmental Protection Agency's (EPA) new standards. She explained Board staff reviewed each revision in the previous proposal and separated out the components specifically necessary for U.S. EPA compliance. The new proposal, available in the meeting materials, proposes changes to 16 CCR section 1970 which are minor to incorporate the new Structural Fumigation Log by reference, clarify which report/form is used and when, and add additional reporting requirements necessary to align with the EPA standards.

She requested the Board to consider the proposal and make a motion to approve the proposed regulation text to notice, directing the Board to the recommended motion language in the Rulemaking Report memo under recommendation.

Board member **Paxson moved**, and Board President **Finley seconded** the motion to approve the proposed regulatory text and changes to Section 1970 as provided in the materials and direct staff to submit all approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any technical or non-substantive changes to the package, and set the matter for hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1970 as noticed.

No Board or public comments.

Motion carried 4-0 by roll call vote.

#### **Agenda Item 16. Outreach and Communications Update**

Ms. Jackson presented the Board with an update on the current outreach efforts, including email communications, partnerships, live events, and speaking engagements. She provided an overview of the social media efforts, statistics; and explained the Board's newsletter name was voted on by Board staff and announced it would be called the "Quarterly Structural Pest Informational Newsletter," abbreviated as "Quarterly SPIN."

Vice President Anderson inquired about the possibility and legalities of the Board allocating funding to boost social media postings. Ms. Jackson replied Board staff is actively pursuing this and will report back to the Board what options are available. Vice President Anderson also requested information about the Board's educational institution partnerships and engagements be included in future Board meeting materials.

#### **Agenda Item 17. Discussion and Possible Action Regarding Termite Bait Stations/Termite Monitoring Devices**

Tom Ineichen, Board Specialist, reported Board staff has received several inquiries on bait stations and monitoring stations and provided background on past regulatory efforts relevant to bait and monitoring stations. He explained current concern from the industry is how bait stations can be used for ongoing programs and what are the appropriate recommendations for control and preventative measures. He provided a summary of the issues that require the Board's attention.

He suggested the Board accept EO Azar's recommendation to establish a Technical Advisory Committee to research the issue, solicit stakeholder input, and deliver a recommendation to the Board at a future meeting on how best to resolve. President Finley directed EO Azar to work with staff and reach out to potential members to form a committee.

#### **Public Comment**

Darren Van Steenwyk, Sprague Pest Solutions, expressed support for the Board developing guidance on this issue due to the ambiguities in current law. He also acknowledged that DPR's efforts to reduce overall pesticide usage and the discovery and potential spreading of Formosan subterranean termites in California makes termite baiting a more prevalent option for pest control companies.

Todd Veden, Terminix Qualifying Manager, echoed Mr. Van Steenwyk's comments and recalled a prior Board meeting where a study regarding the effectiveness of several bait systems was presented and mentioned his company was involved in a large bait installation in California and reported it was extremely effective.

#### **Agenda Item 18. Annual Election of Board President and Vice President**

Board President **Finley moved**, and Board member **Paxson seconded** to nominate Yessenia Anderson for Board President. Ms. Anderson accepted the nomination.

No Board or public comments.

*Motion carried 4-0 by roll call vote.*

Current Vice President **Anderson moved**, and Board member **Tengan seconded** to nominate Kyle Finley for Board Vice President. Mr. Finley accepted the nomination.

No Board or public comments.

*Motion carried 4-0 by roll call vote.*

**Agenda Item 19. Future Agenda Items**

No Board or public comments.

**Agenda Item 22. Adjournment**

President Finley adjourned the meeting at 3:07 p.m.