

**MINUTES OF THE
PRE-TREATMENT COMMITTEE
FEBRUARY 2, 2009**

The meeting was held on Monday, February 2, 2009, at the Department of Consumer Affairs, Hearing Room, 2005 Evergreen Street, Sacramento, California, commencing at 10:00 AM with the following members constituting a quorum:

Ron Moss, Chairman
Ray Carrier
Kevin Ethridge
Eric Paulsen
Cliff Smith
Dave Tamayo
Rick Walsh

Board Staff Present

Dennis Patzer, Analyst

I. ROLL CALL

Chairman Moss called the roll. All committee members were present

II. APPROVAL OF MINUTES

A motion by Kevin Etheridge was made to correct the minutes regarding the "NOTICE OF PRE-CONSTRUCTION TREATMENT" verbiage by inserting "Method of Treatment" as it was left out of the minutes.

Ray Carrier seconded the motion.

The motion passed by unanimous vote.

III. DISCUSSION AND DEVELOPMENT OF DEFINITION OF PRE-TREATMENT

Chairman Moss opened discussion regarding the development of a definition for the term pre-treatment.

There was discussion regarding the different types of pre-construction treatment activities including pesticide applications (soil as well timber applications), baiting systems, sand, and mechanical (devices).

There was discussion regarding developing a definition that would be inclusive of technologies coming forth in the future.

There was discussion regarding Federal Housing Administration (FHA) requirements regarding pretreatment including the permitted practice of baiting after construction and considering it to be a pre-treatment.

There was discussion regarding the inclusion of other wood destroying insects other than subterranean termites in the definition of pre-treatment.

Board counsel Kurt Heppler told the committee that a definition of pre-construction treatment was a good place to start if the committee wanted to go down the statutory track. He stated that the committee should keep in mind what problem they are trying to resolve regarding pre-treatment.

Chairman Moss asked board counsel Heppler what his thoughts were on the word treatment versus application in the definition. Heppler said that he thought the word treatment was broader than the word application.

Dave Tamayo suggested that the language be:

Ray Carrier made a motion that the definition of pre-treatment treatment be defined as follows:

Pre-construction termite control is defined as any structural pest control method including pesticide application or placement of devices used prior to or during the construction process to protect the cellulose components of the structure from termites.

Rick Walsh seconded the motion.

Discussion ensued.

A vote was taken on the motion the motion it passed. Kevin Etheridge opposed the motion.

There was discussion regarding if further definitions were needed regarding proposed legislative language.

Board council Kurt Heppler suggested that the committee concentrate on pre-treatment definition items that are statutory in nature and then work on the regulatory things.

Kelly Okuma stated that if the committee focused on statutory program proposals to the board when a bill is introduced the committee it could then work on developing regulatory language for implementation.

Chairman Moss ended discussion regarding definitions and moved on to the next agenda item.

DISCUSSION AND DEVELOPMENT OF PRE-TREATMENT NOTIFICATION PROTOCOL

There was discussion regarding the pre-treatment notification language adopted at the January 5, 2009, meeting.

Cliff Smith stated the term “Notice of Intent” on the pre-construction treatment notification was confusing because it is a commonly used term in restricted material permit regulation and suggested that the term be changed to “Notice of Treatment”.

Rick Walsh proposed inclusion of the company’s principle office registration number and removal of “License Number” on the notification.

Ray Carrier proposed the inclusion of a contact number on the notification. There was discussion regarding what telephone number should be on the notification.

There was discussion regarding what company telephone number should be required to be put on the notice.

Kevin Etheridge made a motion that the PRE-CONSTRUCTION TREATMENT language approved at the January 5, 2009 meeting be modified as follows:

PRE-CONSTRUCTION TREATMENT

~~“Notice of Intent”~~ “Notice of Treatment” shall be given of pre-treatment to the Structural Pest Control Board at least two hours prior to the commencement of any pre-construction treatment application.

The notification shall include the following information:
Pest Control Company Name & Structural Pest Control ~~License Number~~
Company and Company Principle Office or Branch Office Registration
Number
Contact Telephone Number
Name of Builder or Contractor

Pesticide / Device name, EPA Registration Number, Device Registration Number

Method of Treatment

Subdivision / Lot Number or Street Address

City

Date of Scheduled Treatment

Cross Street

If notice of intent date changes a revised notice of intent must be submitted.

Eric Paulsen seconded the motion.

There was discussion.

The motion passed by unanimous vote.

UPDATE ON CURRENT WDO INTERNET FILING SYSTEM CAPABILITIES FOR INCLUSION OF NEW REPORTING FIELDS AND PRE-TREATMENT NOTIFICATION CAPABILITIES

Kelli Okuma, Registrar of the Structural Pest Control Board gave a report regarding the existing WDO filing systems capability to be modified to include new reporting fields and pre-treatment capabilities. Okuma stated that the current system could be enhanced at reasonable cost to include new reporting components including county agricultural commissioner access to the database specifically for pre-treatment notification information.

Cliff Smith stated that he felt that the database should be able to provide information automatically to the county agricultural commissioners via e-mail regarding pre-treatment notifications. Smith stated that commissioners having to query periodically was not a viable possibility. He asked if automatic notification of county agricultural commissioners was an unreasonable request.

Okuma stated that it would be an unreasonable request. She stated that it would be unreasonable in that it would be cost prohibitive to structure the system to provide automatic notification information that would be used on a very limited basis.

Kevin Etheridge asked if the notice of treatment would take the place of having to file a wood destroying pests and organisms report for pre-treatments. Okuma stated that conceptually the answer would be yes.

Kevin Etheridge discussed the three levels of perceived county agricultural commissioner involvement in enforcement regarding pre-construction enforcement according to the Department of Pesticide Regulation. The levels

ranged from counties wanting to actively interact with the board regarding pre-treatment activities (smallest group), counties wanting to know when there was a suspected violation regarding pre-treatment activities (second smallest group), and counties that would not be interested in activities regarding pre-treatment activities (largest group). Etheridge stated that interested county agricultural commissioner having query access to the board's database would be well served.

Cliff Smith discussed his concerns regarding counties having to frequently access the database when wanting information regarding a two-hour filing.

Eric Paulsen discussed the possibility of some quick technology being available for counties being able to receive notification from companies filing two-hour notifications.

DISCUSSION AND DEVELOPMENT OF PRE-TREATMENT ACTIVITY TAG

Ron Moss stated that there is language in California Code of Regulation (CCR) section 1996.1 regarding the posting of completion tags.

There was discussion regarding proposed language that came out of the previous pre-treatment committee regarding a definition for a pre-treatment activity tag.

Eric Paulsen stated that if an activity tag was referenced in statute, CCR section 1996.1 could be amended and become the definitive regulation section for the statute.

Eric Paulsen made a motion that;

The language for posting pre-treatment tags be put into the statute with the intention that once its in statute CCR section could be amended to include definition for a pre-treatment activity tag.

Kevin Etheridge seconded the motion.

Discussion ensued.

Dave Tamayo stated that he was not sure what specific language the committee was considering. Paulson read him the language as follows:

“A tag not less than 3” X 5” shall be conspicuously posted above the finished poured slab or be placed on the onsite contractors permit or inspection board.”

Dennis Patzer, SPCB suggested that since CCR section 1996.1 already specifies the size of a completion tag the mention of the size of the tag could be left out of the statute.

Cliff Smith asked what was the purpose of the activity tag.

Kevin Etheridge explained the purpose and reasons for the posting of a pre-treatment activity tag in Arizona.

A completion tag for each application site shall be conspicuously posted.

Eric Paulsen stated that a statute should be clear regarding when and where a treatment tag should be posted.

Kelli Okuma asked which statute dealt with the placement of tags after work was completed.

Tom Ineichen stated that section 8619 of the Business and Professions Code dealt with tag placement. Discussion regarding amending the statute to cover tags for pre-treatment ensued.

Eric Paulsen stated that during the discussion regarding posting a tag many amendments were suggested and he proposed to amend his motion to amend Section 8619 to create subsection (c) Pre-Construction Termite Control Treatment Tag. Upon completion, a pre-construction termite control completion tag as specified by the board shall be posted.

Kevin Etheridge seconded the motion.

The motion passed by unanimous vote.

DISCUSSION REGARDING JURISDICTIONAL ISSUES FOR PRE-TREATMENT ENFORCEMENT

Kevin Etheridge stated that from details coming out discussions during the last Pre-Treatment Committee meeting that the board would be the lead agency regarding pre-treatment enforcement activities and that county agricultural commissioner enforcement activities would be divided into three constituencies (1) counties wanting to take the lead for pre-treatment monitoring enforcement (2) counties not wanting to take authority but in the case of an apparent violation would like a referral from the board and (3) counties that would not want to participate at all in pre-treatment monitoring enforcement.

Cliff Smith stated that as long as the system was left open for the commissioners to enter in one of the forms described he thinks it would be workable. He stated that he felt that if a commissioner determined a violation was contractual the

matter would be referred to the board and if a specialist determined a pesticide use violation occurred the matter would be referred to a commissioner.

Ron Moss stated that it was his hope that enforcement entities would cooperate together and use the tools available to them to have an effective program.

There was a discussion regarding fees and how counties would be reimbursed for inspections made for pre-treatment enforcement activities.

Dave Tamayo stated that he hoped that in the future the meeting agenda could be general enough to allow for some additional discussion of items not agendized.

Kelli Okuma said that she was hopeful that future agenda items would include items that would support legislative proposals coming out of the committee.

Rob Wellington stated that he like to see the future agenda be specific enough to get business accomplished and to include an item for public comment.

Ron Moss scheduled the next meeting of the Pre-Treatment Committee would be on Monday, March 9, 2009, at 10:00 AM at the Department of Consumer Affairs building at 2005 Evergreen Street, Sacramento, CA.

The meeting adjourned at 2:55 PM.

Ron Moss, Chairman

Date