MINUTES OF THE
STRUCTURAL PEST CONTROL ACT REVIEW COMMITTEE
MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
December 10, 2013

The meeting was held on Tuesday, December 10, 2013, at Western Exterminator, 305 North Crescent Way, Anaheim, California, commencing at 9:10 A.M. with the following members present:

Bob Gordon, Chairman
Ronna Brand
Allen Kanady
Mike Katz
Lee Whitmore

Board staff present:

Susan Saylor, Executive Officer
Robert Lucas, Consumer Services Manager
Ronni O'Flaherty, Administrative Analyst
Ron Moss, Board Specialist

Board President, Curtis Good was also in attendance.

Mr. Gordon stated that Mr. Katz, Mr. Ennes, and Mr. Whitmore will not be able to attend the previously scheduled January 22, 2014 meeting and that meeting is being cancelled. He added that later in this meeting, the committee will discuss future meeting dates.

APPROVAL OF MINUTES OF THE MAY 29 AND SEPTEMBER 23, 2013 COMMITTEE MEETINGS

Mr. Katz moved and Mr. Kanady seconded to approve the minutes of the May 29, 2013 committee meeting. Passed unanimously.

Mr. Whitmore moved and Mr. Katz seconded to approve the minutes of the September 23, 2013 committee meeting. Passed unanimously.

REVIEW OF THE STRUCTURAL PEST CONTROL ACT AND TITLE 16, CALIFORNIA CODE OF REGULATIONS, FOR THE PURPOSE OF UPDATING AND IDENTIFYING CONTINUED NEED AND/OR USE

Mr. Gordon stated that at this meeting the committee needs to prioritize the recommendations that were made at previous meetings.

Mr. Katz suggested that the committee's recommendations to change California Code of Regulations (CCR) Section 1970.4 to include electronic delivery be presented to the Board as soon as possible.

Ms. Saylor stated that she would add this to the January Board meeting agenda and added that the committee's recommended changes to Business and Professions (B&P) Code Section 8538 have already been submitted.

Mr. Gordon stated that the committee will categorize their recommendations as follows: Category 1 recommendations should be non-controversial changes that the committee thinks will easily pass through legislation. Category 2 recommendations should be ones that the committee anticipates possible controversy over. Category 3 recommendations are recommendations that the committee knows will be highly controversial.

Mr. Whitmore commented that if the Board tries to put through all of the controversial recommendations at one time that they will have a hard time finding a sponsor and it is highly unlikely that the bill will pass.

Mr. Gordon introduced Travis Swope, the President of Pest Control Operators of California (PCOC) and Peggy Byerly, Senior Environmental Scientist from the Department of Pesticide Regulation (DPR).

The committee categorized their recommendations as follows:

- B&P Code Section 8504 – Category 1

8504. "Person" includes an individual, firm, partnership, corporation, ~~limited liability company~~, association or other organization or any combination thereof.

Mr. Gordon stated that B&P Code Section 8505 is to be discussed when the committee addresses definitions.

- B&P Code Section 8505.1 – Category 1

8505.1. (a) Except as provided in subdivisions (b) and (c), for the purpose of this act, "fumigation" shall be defined as the use within an enclosed space for the destruction of

plant or animal life, a substance having a vapor pressure greater than 5 millimeters of mercury at 25 degrees centigrade when the substance is labeled for those purposes.
The following is a list of lethal fumigants:
(1) Methyl bromide.
~~(2) Sulfur dioxide.~~
~~(3) Propylene oxide.~~
(~~4~~ 2) Sulfuryl fluoride.
(~~5~~ 3) Aluminum phosphide.
The board may adopt, and may as necessary amend, by regulation, a list of fumigants.
(b) For the purpose of this act, "warning agent" shall be any agent used in combination with any fumigant that lacks warning properties.
The following is a warning agent:
Chloropicrin.
The board may adopt, and may as necessary amend, by regulation, a list of warning agents.
(c) For the purpose of this act "simple asphyxiants" shall not be deemed to be fumigants.
The following is a list of simple asphyxiants:
(1) Liquid nitrogen.
(2) Carbon dioxide.
(3) Carbon monoxide
The board may adopt, and may as necessary amend, by regulation, a list of simple asphyxiants.

- B&P Code Section 8505.2 – Category 1

8505.2. Fumigation shall be performed only under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in ~~a~~ ~~b~~Branch ~~of pest control that includes fumigation~~ 1 as set forth in Section 8560.

- B&P Code Section 8505.5 – Category 1

Mr. Katz moved and Ms. Brand seconded to remove "which may be requested by the commissioner" from the last sentence of B&P Code Section 8505.5. Passed unanimously.

The final recommendations to this section are as follows. Changes made at this meeting are indicated by double strike through and double underline.

8505.5. Notice of the date and place of fumigation, and chemicals to be used, shall be given by the fumigator to the fire department serving the area in which fumigation is to be performed not less than two hours prior to the time fumigation begins. The fire department shall not charge any fees for any service related to

structural pest control activities except for the costs of an emergency response necessitated by illegal or negligent actions.

~~If requested by the county agricultural commissioner, n~~Notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed. The notice, which may be mailed or ~~given by telephone~~ provided by some form of electronic communication, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. No fee shall be assessed for processing ~~the~~ this notice ~~which may be requested by the commissioner~~.

- B&P Code Section 8505.6 – Category 1

~~**8505.6.** During the process of fumigation the room or apartment being fumigated, together with all rooms and apartments, including rooms or apartments on the same floor and those above, below, and adjacent thereto, shall be vacated by the occupants thereof. During the process of such fumigation, all rooms, apartments, and hallways adjacent to the rooms, apartments or spaces undergoing fumigation, shall be kept well ventilated and warning signs as herein prescribed stating such fact of fumigation shall be kept posted at all entries to such rooms or apartments during the time of such fumigation and thereafter until all such premises are safely ventilated free of all fumes. All rooming or apartment houses designed for the use of four families or less shall be entirely vacated and closed against entry thereto and occupancy thereof while fumigation is being performed therein and until the same is safely ventilated free of all fumes.~~

Mr. Gordon stated that B&P Code Section 8505.7 will be discussed at a future meeting after the committee reviews the language to the California Aeration Plan (CAP).

Mr. Whitmore stated that at the last Enforcement Committee Meeting the committee came to the conclusion that this section should not change because CAP is a standalone fumigation plan.

- B&P Code Section 8505.10 – Category 1

8505.10. Warning signs shall be printed in red on white background and shall contain the following statement in letters not less than two inches in height: "DANGER--FUMIGATION." They shall also depict a skull and crossbones not less than one inch in height and shall state in letters not less than one-half inch in height the name of the fumigant~~,~~. These signs shall also include in legible ink of any color, the date and time fumigant was injected, and the name, address and telephone number of the registered company performing the fumigation. Warning signs placed under a tarpaulin shall not be required to state the time the fumigant was injected.

- B&P Code Section 8505.12 – Category 1

Mr. Whitmore moved and Ms. Brand seconded to remove the term "unusual" from B&P Code Section 8505.12. Passed unanimously.

Mr. Katz moved and Mr. Kanady seconded to add "and documented in advance" to B&P Code Section 8505.12 regarding authorization to waive the use of chloropicrin. Passed unanimously.

The final recommendations for B&P Code Section 8505.12 are as follows. Changes made at this meeting are indicated by double strike through and double underline.

8505.12. A registered company performing fumigation shall use an adequate warning agent with all fumigants which lack such properties.
There may be ~~unusual~~ circumstances in which the use of chloropicrin is not possible due to its unknown effects on sensitive items, such as but not limited to artifacts in museums or in police evidence storage. In these circumstances, waiving the use of chloropicrin must be approved by the state regulatory authority and documented in advance and must include alternative safety precautions which address initial clearance of the site to be fumigated, potential movement of the fumigant to unattended areas, and continued site security.
When conditions involving abnormal hazards exist, the licensee exercising direct and personal supervision shall take such safety precautions in addition to those prescribed by this chapter as are reasonably necessary to protect the public health and safety.

- B&P Code Section 8505.14 – Category 1

8505.14. "Fumigator" means any individual licensed by the board as a structural pest control operator or as a structural pest control field representative in ~~the b~~Branch 1 ~~of pest control which includes fumigation~~ as set forth in Section 8560.

The committee did not categorize B&P Code Section 8505.17 because the requirement to "affix" a stamp still needs to be addressed.

Ms. Saylor stated that she is working on having the ability to pay for and obtain stamp or filing numbers through the current Wood Destroying Organisms (WDO) system.

Mr. Gordon stated that B&P Code Sections 8506, 8506.2, 8508, 8509, 8510, 8511, 8512, and 8513 will be discussed with definitions.

- B&P Code Section 8514 – Category 1

8514. No registered company shall commence ~~perform~~ work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made by an operator or field representative ~~associated with the registered company~~.

Notwithstanding any provision of this chapter, after an inspection has been made and any required inspection report or records are issued, a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but its branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided that it subcontracts in writing the actual performance of the work to a registered company which holds a branch registration authorizing the particular method to be used.

A registered company may in writing subcontract any pest control work for which it is registered in any branch or branches to a registered company holding a valid branch registration to do such work.

Nothing in this chapter shall be construed to prohibit a registered company or the consumer from subcontracting with a licensed contractor to do any work authorized under Section 8556.

A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer must be informed in advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

Nothing herein contained shall permit or authorize a registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified, or registered to perform, pest control work in a branch, or by a method, for which it is not registered, except that a Branch 2 or Branch 3 registered company may advertise fumigation or any all encompassing treatment described in paragraph (8) of subdivision (a) of Section 1991 of Title 16 of the California Code of Regulations if the company complies with the requirements of this section.

Subcontracting of work, as permitted herein, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, an act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for an act or omission in the performance of the work that the consumer directly contracts with another registered company to perform, as permitted by this section.

- B&P Code Section 8516 – Category 2

8516. (a) This section, and Sections 8518 and 8519, apply only to wood destroying pests or organisms.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator associated with the registered company except as provided in Section 8519.5. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars ($2,500).

A written inspection report ~~conforming to this section and~~ on a form approved by the board shall be prepared and delivered to the owner and the person requesting the inspection or ~~to~~ the person's designated agents within 10 business days ~~of~~ from the commencement of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all original inspection reports, field notes, and activity forms.

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original inspection reports or copies thereof shall be submitted to the board upon request within two business days. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensed field representative or operator making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist. Reporting of the infested or infected wood members, or parts of the structure identified shall be listed in the inspection report so as to clearly identify them as is typical in standard construction components (i.e. siding, studs, rafters, floorjoist, fascia, subfloor, sheathing, trim boards, etc.)

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic

walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

"NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company."

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 ~~working~~ <u>business</u> days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the

inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board.

Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions.

In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and any corrections as have been agreed upon have been completed.

Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) ~~A reference to t~~The original inspection report, ~~and~~ agreement, and completion report shall be maintained for the duration of this agreement.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(J) All control service contracts, agreements, and documents shall be maintained for ~~two~~ three years after cancellation of control service.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, "control service agreement" means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

- B&P Code Section 8516.5 – Category 1

~~**8516.5** Any registered company that makes an inspection of any property relating to the absence or presence of wood destroying pests or organisms on such property and makes a report of such inspection shall furnish a copy of the report either to the owner of the property or to the agent of the owner, within 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be furnished.~~

Mr. Katz recommended that it is noted with this categorization that B&P Code Section 8516.5 is duplicative of B&P Code Section 8516(b).

- B&P Code Section 8517 – Category 1

8517. ~~Any work contract, billing, agreement, letter of work completed, or other correspondence or document expressing an opinion or making a statement relating to the presence or absence of wood destroying pests or organisms or nondecay fungi, shall refer to the inspection report required by Section 8516. These documents shall indicate specifically whether all of the recommended work as set forth in the inspection report was completed, or, if not, the document shall indicate specifically which recommendations were not completed.~~

Mr. Katz recommended that it is noted with this categorization that B&P Code Section 8517 has been added to the recommended language in B&P Code Section 8518.

- B&P Code Section 8518 – Category 1

8518. When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 ~~working~~ business days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

These documents shall indicate specifically whether all of the recommended work as set forth in the inspection report was completed, or, if not, the document shall indicate specifically which recommendations were not completed.

The address of each property inspected or upon which work was completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 ~~working~~ business days after completed work.

Every property upon which work is completed shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property upon which work was completed pursuant to subdivision (b) of Section 8516 or

Section 8518 is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars ($2,500).

The registered company shall retain for three years all original notices of work completed, work not completed, and activity forms.

Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

- B&P Code Section 8519 – Category 1

Mr. Katz moved and Mr. Whitmore seconded remove "SPCA" from their previous recommendations for B&P Code Section 8519(d).

The final recommended language to B&P Code Section 8519 is as follows. Changes made at this meeting are indicated by double strike through and double underline.

8519. Certification as used in this section means a written statement by the registered company attesting to the statement contained therein relating to the absence or presence of wood-destroying pests or organisms and, listing such recommendations, if any, which appear on an inspection report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-destroying pests or organisms found, or (2) repair of structurally weakened members caused by such infestation or infection, and which recommendations have not been completed at the time of certification.

Any registered company which makes an inspection report pursuant to Section 8516, shall, if requested by the person ordering the inspection report, prepare and deliver to that person or his or her designated agent, a certification, to provide:

(a) When the inspection report prepared pursuant to Section 8516 has disclosed no infestation or infection: "This is to certify that the above property was inspected on ____ (date) in accordance with the Structural Pest Control Act and rules and regulations adopted pursuant thereto, and that no evidence of active infestation or infection was found in the visible and accessible areas."

(b) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that all recommendations to remove that infestation or infection and to repair damage caused by that infestation or infection have been completed: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas."

(c) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that the registered company has not completed all recommendations to remove that infestation or infection or to repair damage

caused by it: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas except as follows: ____ (describing infestations, infections, damage or evidence thereof, excepted)."

This certificate shall be accompanied by a copy of the inspection report prepared pursuant to Section 8516, and by a copy of the notice of work completed prepared pursuant to Section 8518, if any notice has been prepared at the time of the certification, or the certification may be endorsed on and made a part of that inspection report or notice of work completed.

(d) When a limited inspection report prepared pursuant to Section 8516 has disclosed no infestation or infection: "This is to certify that the area that was inspected on this limited inspection report dated _____ in accordance with the ~~SPCA~~ rules and regulations, adopted pursuant thereto, revealed no evidence of active infestation or infection in the visible and accessible areas inspected.

Mr. Whitmore stated that PCOC Fumigation Enforcement Committee is working on warranty language that addresses a fumigation that is performed as a result of a fumigation company sub-contracting with a Branch 2 or 3 company. The committee decided not to categorize B&P Code Section 8519.5 until they receive recommendations.

The committee did not categorize B&P Code Section 8538 because it has already been submitted to the department.

- B&P Code Section 8551(deletion of) – Category 1

~~**8551.** It is unlawful for any unlicensed person to perform fumigation with dangerous or lethal fumigating chemicals in any public structure, including rooming houses, or households when used as public structures, hotels, apartment houses, or any part thereof.~~

- B&P Code Section 8551 (new, replacing B&P Code Section 8551.5) – Category 1

8551.~~5.~~ Except as provided by this chapter, ~~N~~no unlicensed individual in the employ of a registered company shall apply any pesticides, ~~rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests, or organisms included in Branch 2 or Branch 3.~~ However, an individual may, for ~~30~~ 60 days from the date of employment, apply pesticides~~, rodenticides, or allied chemicals or substances~~ for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The ~~30-~~ 60 day time period may not be extended.

- B&P Code Section 8553 – Category 2

8553. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, is guilty of a misdemeanor, and is punishable by a fine of not less than ~~one hundred dollars ($100)~~ fifty dollars ($50) nor more than ~~one thousand dollars ($1,000)~~ five thousand dollars ($5,000), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

- B&P Code Section 8555 – Category 2

8555. This chapter does not apply to:

(a) Public utilities operating under the regulations of the Public Utilities Commission, except to work performed upon property of the utilities not subject to the jurisdiction of the Public Utilities Commission or work done by the utility for hire.

(b) Persons engaged only in agricultural pest control work under permit or license by the Department of Pesticide Regulation or a county agricultural commissioner.

(c) Pest control performed by persons upon property that they own, lease or rent, except that the persons shall be subject to the limitations imposed by Article 3 of this chapter.

(d) Governmental agencies, state, federal, city, or county officials, and their employees while officially engaged.

(e) Authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony. A professional engaging in research, study, investigation, or preparation for expert opinion or testimony on his or her own behalf shall comply with the requirements of this chapter.

(f) Certified architects and registered civil engineers, acting solely within their professional capacity, except that they shall be subject to the limitations imposed by Article 3 of this chapter.

(g) Persons engaged in the live capture and removal or exclusion of ~~vertebrate pests,~~ bees~~,~~ or wasps from a structure without the use of pesticides, provided those persons maintain insurance coverage as described in Section 8692. ~~"Vertebrate pests" include, but are not limited to, bats, raccoons, skunks, and squirrels, but do not include mice, rats, or pigeons. This section does not exempt a person from the provisions of Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.~~

The committee did not categorize B&P Code Section 8557 because they are awaiting a legal opinion regarding the ability of the County Agricultural Commissioner's (CAC) ability to suspend companies.

- B&P Code Section 8560 – Category 1

8560. (a) Licenses issued to operators, field representatives, or applicators shall be limited to the branch or branches of pest control for which the applicant has qualified by application and examination.

For the purpose of delimiting the type and character of work authorized by the various branch licenses, the practice of pest control is classified into the following branches:

Branch 1. Fumigation. The practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases.

Branch 2. General pest. The practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases.

Branch 3. Termite. The practice relating to the control of wood-destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.

(b) The board may issue a license for a combination of two or more branches for which an applicant qualifies under the provisions of this chapter, and the combination license shall be considered one license.

(c) Unless otherwise authorized by the board, all ~~written~~ examinations shall be ~~in ink in books~~ supplied by the board. All examinations ~~papers~~ shall be kept for a period of one year, upon the expiration of which these ~~papers~~ records may be destroyed on order of the board. Each applicant for license as an operator or a field representative shall be designated by a number instead of by name, and the identity thereof shall not be disclosed until the examinations ~~papers~~ are graded. No person shall be admitted to the examination room except members of the board, the examining personnel, and the applicants ~~for license~~.

(d) The board shall make rules and regulations for the purpose of securing fair, impartial, and proper examinations.

(e) Licensees may be licensed in other branches upon complying with the requirements for qualification and by examination in those other branches. No failure of the licensee to pass examination in the other branch or branches shall have any effect on existing licenses.

(f) The examination shall be in each of the subjects specified in the branch or branches relating to the respective applications. A license according to the applications shall be granted to any applicant who shall make a general average of not less than 70 percent on each of the subjects of the branch or branches.

- B&P Code Section 8562 – Category 1

8562. To obtain an original operator's license, an applicant shall submit to the registrar an application ~~in writing~~ containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The name of the applicant.

(b) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches of pest control listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of that experience:

Branch 1	2 years
Branch 2	2 years
Branch 3	4 years

For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field.

(c) A designation of the branch or branches for which the application is made.

(d) The fees prescribed by this chapter.

(e) No operator's license shall be issued to an individual under 18 years of age.

(f) Effective January 1, 1993, an operator's license shall not be issued to an individual unless that individual has been licensed as a field representative in the branch in which the individual has applied for an operator's license for a period of at least one year, in the case of Branches 1 and 2, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of that training and experience.

- B&P Code Section 8564 – Category 1

8564. To obtain an original field representative's license, an applicant shall submit to the registrar an application ~~in writing~~ containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The length of time during which the applicant has engaged in any work relating to pest control.

(b) The name and place of business of the person who last employed him or her.

(c) The name of the person by whom the applicant is employed.

(d) The name of the registered company by which the applicant is to be employed.

(e) The fees prescribed by this chapter.

The board shall not accept any application for a field representative's license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest

identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of that training and experience.

- B&P Code Section 8564.5 – Category 1

8564.5. (a) Any individual 18 years of age or older may apply for a license as applicator.

(b) The board shall ascertain by ~~written~~ examination that an applicant for a license as applicator in Branch 2 or Branch 3 has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

(c) Passage of the ~~written~~ examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3.

(d) The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering the examination~~, provided, however, that the fee shall not exceed fifteen dollars ($15)~~.

(e) Nothing in this chapter shall prohibit an applicator, authorized to apply any chemical substance in Branch 2 or Branch 3 before January 1, 1995, from acting as an applicator pursuant to that authorization. Upon expiration of the authorization, an applicator' s license shall be required.

- B&P Code Section 8564.6 – Category 1

8564.6. To obtain an original applicator's license, an applicant shall submit to the registrar an application ~~in writing~~ containing a statement that the applicant requests the issuance of an applicator's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board and shall contain the following:

(a) The name of the registered company by which the applicant is to be employed.

(b) The fee prescribed by this chapter.

- B&P Code Section 8565 – Category 1

8565. The board shall ascertain by ~~written~~ examination that an applicant for a license as operator is qualified in the use and understanding of all of the following:

(a) The English language~~,~~ including reading~~,~~ and writing~~, and spelling~~.

(b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(c) The labor laws of the state.

(d) The provisions of this chapter.

(e) ~~Poisonous and other dangerous chemicals~~ Pesticides used in pest control, if the branch license or licenses for which he or she is applying, require that knowledge.

(f) The theory and practice of the branch or branches of pest control in which the applicant desires to be licensed.

(g) Other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control in the various branches, including an applicant's knowledge of the requirements regarding health effects and restrictions on applications, as set forth in Section 8538.

- B&P Code Section 8565.6 – Category 1

~~**8565.6.** An applicant for a Branch 2 license may elect to be certified in the handling, control, and techniques of removal of Africanized honey bees. The board shall develop a program to certify applicants in this specialty, or may approve a program for certification developed by the Pest Control Operators of California.~~

- B&P Code Section 8566 – Category 1

8566. The board shall ascertain by ~~written~~ examination that an applicant for a license as field representative is qualified in the use and understanding of the following:

(a) The safety laws of the state, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(b) The provisions of this chapter.

(c) ~~Poisonous and other dangerous chemicals~~ Pesticides used in pest control, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(d) The theory and practice of pest control in the branch or branches thereof for which the applicant desires to be licensed.

(e) Other state laws, safety or health measures, or practices as are reasonably within the scope of structural pest control in the various branches.

- B&P Code Section 8567 – Category 1

8567. Should a field representative or applicator change his or her employment, or should an operator enter the employ of a registered company, or being already employed by a registered company change his or her employment, or being employed by a registered company leave that employment and enter the pest control business on

his or her own behalf, he or she shall notify the registrar ~~in writing~~, on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. Whereupon the registrar shall register the change in his or her records.

- B&P Code Section 8590 – Category 1

8590. Except as otherwise provided herein, all operator's, ~~and~~ field representative's, and applicator's licenses shall expire at 12 midnight on June 30 of every third year ~~and all applicator's licenses shall expire at 12 midnight three years from the date of issue~~.

An individual licensed in more than one category may request that each license expire on the same date. The date requested shall be the date of the earliest expiration.

Every operator, ~~and~~ every field representative, and applicator shall pay a fee for the renewal of his or her license.

The board shall on or before the first day of June of each year mail to each operator, ~~and~~ field representative, and applicator whose license will expire in that year, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by June 30, a penalty will be added thereto.

In no case shall the penalty be waived.

Upon the receipt of the fee the board shall cause the renewal certificate to be issued.

- B&P Code Section 8590.1 – Category 1

~~**8590.1.** All applicator's licenses shall expire at 12 midnight three years from the date of issue. Every applicator shall pay a fee for the renewal of his or her license.~~

~~The board shall, on or before 60 days prior to the expiration of an applicator's license, mail to the applicator whose license will expire, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by the due date, a penalty will be added thereto. In no case shall the penalty be waived. Upon the receipt of the fee, the board shall cause the renewal certificate to be issued.~~

- B&P Code Section 8593.1 – Category 1

8593.1. The board shall require as a condition to the renewal of each applicator's license that the holder thereof submit proof satisfactory to the board that he or she has completed courses of continuing education in pesticide application and use approved by

the board or equivalent activity approved by the board. In lieu of submitting that proof, the license holder, if he or she so desires, may successfully apply for and pass an appropriate ~~written~~ applicator' s examination for renewal of a license given by the board.

- B&P Code Section 8611 – Category 2

8611. Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative in the branch or branches of business being conducted-and his or her license shall be prominently displayed in the branch office.
If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

- B&P Code Section 8612 – Category 1

8612. The licenses of qualifying managers and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains.
When a registered company opens a branch office it shall notify the registrar ~~in writing~~ on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

- B&P Code Section 8613 – Category 1

8613. A registered company which changes the location of its principal office or any branch office or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance shall notify the registrar ~~in writing~~ on a form prescribed by the board of such change within 30 days thereafter. A fee for filing such changes shall be charged in accordance with Section 8674.

The committee did not categorize B&P Code Section 8616.9 because it was tabled at a previous meeting.

Mr. Whitmore stated that the committee is awaiting a rewrite from Ms. Boyle to address violations being issued to companies that do not have to do with personal protective equipment.

Ms. Boyle stated that there are a couple of sections in the Enforcement Response Regulations (ERR) that discuss the CAC's citation authority that the committee may want to look at when addressing this section. (ERR sections 6128, 6130, 6131 and Agriculture Code 6702(c))

- B&P Code Section 8617 – Category 1

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a licensee, registered company, or an unlicensed individual acting as a licensee, may levy an administrative fine up to one thousand dollars ($1,000) or direct the licensee to attend and pass a board-approved course of instruction at a cost not to exceed the administrative fine, or both, for each violation of this chapter or Chapter 14.5 (commencing with Section 8698), or any regulations adopted pursuant to these chapters, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to pesticides. However, any violation determined by the board or the commissioner to be a serious violation as defined in Section 1922 of Title 16 of the California Code of Regulations shall be subject to a fine of not more than five thousand dollars ($5,000) for each violation. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.
(b) A licensee who passes a course pursuant to this section shall not be awarded continuing education credit for that course.
(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of receipt of the written notice of proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be

given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and a right to present evidence on his or her own behalf. If a hearing is not requested within the prescribed time, the commissioner may take the action proposed without a hearing.
(d) If the person upon whom the commissioner imposed a fine or suspension or required attendance at a board-approved course of instruction requested and appeared at a hearing before the commissioner, the person may appeal the commissioner's decision to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.
(e) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the commissioner's decision if no appeal is filed. If an appeal pursuant to Section 8662 is filed, the commissioner's order shall be stayed until 30 days after the Disciplinary Review Committee has ruled on the appeal.
(f) Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation containing a fine is issued to a licensee and it is not contested or the time to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of that license. A license shall not be renewed without payment of the renewal fee and fine. Where a citation containing a fine is issued to a registered company and it is not contested or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the registered company any pesticide use stamps ~~or allow any Wood Destroying Organisms (WDO) filings~~ until the assessed fine has been paid. Where a citation containing the requirement that a licensee attend and pass a board-approved course of instruction is not contested or the time to appeal the citation has expired and the licensee has not attended and passed the required board-approved course of instruction, the licensee's license shall not be renewed without proof of attendance and passage of the required board-approved course of instruction.
(g) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.
(h) Where the board is the party issuing the notice of proposed action to suspend or impose a fine pursuant to subdivision (a), "commissioner" as used in subdivisions (c), (d), and (e) includes the board's registrar.
(i) An A~~a~~ctions brought pursuant to this section shall be commenced by the commissioner ~~or board under this section must be brought~~ within two years of the occurrence of the ~~act or omission~~ violation. ~~However, w~~When ~~an investigation~~ commissioner submits a completed investigation to the board for action by the Registrar or the Attorney General, ~~is completed and submitted to the director,~~ the action shall be commenced within one year of that submission.

The committee did not categorize B&P Code Section 8521 because it was previously tabled for staff to seek legislative intent regarding this section.

- B&P Code Section 8622 – Category 1

8622. When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, unless an extension is authorized by the board, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged, not to exceed one hundred twenty-five dollars ($125). If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

- B&P Code Section 8643 – Category 1

8643. The negligent handling or use of any ~~poisonous exterminating agent~~ pesticide is a ground for disciplinary action.

The next meeting was scheduled for Wednesday, January 29, 2014 in Sacramento.

The following meeting was scheduled for Wednesday, March 5, 2014 in Southern California.

The following meeting was scheduled for Wednesday, April 2, 2014 in Sacramento.

- B&P Code Section 8647 – Category 1

8647. Failure to comply in the sale or use of ~~insecticides~~ pesticides with the provisions of Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code is a ground for disciplinary action.

- B&P Code Section 8651 – Category 1

8651. The performing or soliciting of structural pest control work, the inspecting for structural or household pests, or the applying of any pesticide~~, chemical, or allied substance~~ for the purpose of eliminating, exterminating, controlling, or preventing structural or household pests in branches of pest control other than those for which the operator, field representative, or applicator is licensed or the company is registered is a ground for disciplinary action.

Mr. Kanady moved and Mr. Katz seconded to recommend to the Board to change B&P Code Section 8516(h)(1)(J) from two to three years. Passed unanimously.

The final recommendations to B&P Code Section 8516(h)(1)(J) are as follows. The recommendations made at this meeting are indicated by double underline and double strike through.

8516(h)(1)(J) All control service contracts, agreements, and documents shall be maintained for ~~two~~ three years after cancellation of control service.

- B&P Code Section 8652 – Category 1

Ms. Brand moved and Mr. Kanady seconded to recommend to the Board to amend B&P Code Section 8652 as follows. Passed by majority. (AYES: Kanady, Brand, Gordon, Katz; NOES: Whitmore)

8652. Not withstanding any other provisions of this chapter, ~~F~~failure of a registered company to make and keep all inspection reports, field notes, contracts, documents, notices of work completed, and records, other than financial records, for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. These records shall be made available to the executive officer of the board or his or her duly authorized representative during business hours.

- B&P Code Section 8656 – Category 1

8656. In addition to the remedies provided for in Section 125.9 of the Business and Professions Code, when the licensee who is a registered company has failed to pay the fine assessed pursuant to a citation within 30 days of the date of assessment, unless the citation is being appealed, the board shall not sell to the registered company any pesticide use stamps until the assessed fine has been paid.

- B&P Code Section 8660 – Category 1

8660. A disciplinary review committee consisting of three members shall be established for the purposes of reviewing appeals of orders issued pursuant to Section 8617. The committee shall be made up of one member representing the Director of ~~Food and Agriculture~~ Department of Pesticide Regulation and one member representing the board. The third member shall be a licensed pest control operator actively involved in the business of pest control and shall be selected by agreement of the other members.

- B&P Code Section 8663 – Category 2

8663. (a) This section only applies to work conducted under a Branch 1 license.
(b) A copy of a notice of violation issued for any violation committed by a subcontractor shall be sent to the prime contractor responsible for the work by the issuing authority within 30 days from the date the violation was committed or

discovered. In circumstances where the violation is classified as "serious" or "moderate" as defined in Section 1922 of Title 16, ~~notification shall be performed by~~ certified mail, return receipt requested.
(c) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may levy a fine of up to ~~one thousand dollars ($1,000)~~ five thousand dollars ($5,000) against a registered company acting as a prime contractor for any ~~major~~ "serious" or "moderate" violation as defined in Section 1922 of Title 16 committed by ~~any licensee~~ a subcontractor with whom the prime contractor has subcontracted if, before that violation occurred, the prime contractor had been notified ~~by certified mail, return receipt requested,~~ of two or more ~~than two major~~ "serious" or "moderate" violations committed by ~~the~~ that subcontractor within 12 consecutive months.
Fines collected pursuant to this section shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund.
(c) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may levy a fine of up to ~~one thousand dollars ($1,000)~~ five thousand dollars ($5,000) against a registered company acting as a prime contractor for any ~~major~~ "serious or moderate" violation as defined in Section 1922 of Title 16 committed by ~~any licensee~~ a subcontractor with whom the prime contractor has subcontracted, if before

that violation had occurred, the prime contractor had been notified of ~~by certified mail, return receipt requested, of more than~~ two or more ~~major~~ "serious" or "moderate" violations committed by ~~the~~ that subcontractor within 12 consecutive months.
~~(d) A copy of a notice of violation issued for any violation committed by a subcontractor shall be sent by certified mail to the prime contractor by the issuing authority within 15 days from the date the violation was committed.~~
(e~~b~~d)Notwithstanding subdivision (~~b~~ c), a prime contractor may be fined for a subcontractor's first violation for failing to have a signed ~~factsheet~~ Occupant Fumigation Notice (OFN) on the premises being treated, or for failure ~~if the subcontractor fails~~ to provide advance notice of a ~~treatment~~ fumigation per Section 8538 (b), to the occupants of the premises being treated.

- B&P Code Section 8666 – Category 2

~~**8666.** It shall be unlawful for any licensee under this chapter to recommend or to perform any pest control corrective work under any contract or agreement that the licensee knows or has reason to know is in excess of that required to eliminate the condition for which the licensee was employed.~~
~~A violation of this section is a public offense and is punishable upon the first conviction by imprisonment in the county jail for not more than six months, or by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine.~~

- B&P Code Section 8672.1 – Category 1

8672.1 As used in this chapter, "original applicator's license" means an applicator's license issued to an individual who did not have a license on the preceding June 30th.
For the purpose of this chapter, a renewal applicator's license means an applicator's license issued to an individual who had an applicator's license on June 30th of the preceding renewal period.

- B&P Code Section 8673 – Category 1

8673. License fees shall not be prorated unless an individual licensed as an operator, ~~and a~~ field representative, or applicator requests an earlier expiration date of one of the licenses in accordance with Section 8590. All license and registration fees shall be paid in advance of the issuance of the license or registration, and all examination fees shall be paid in advance of the examination.

The committee did not categorize B&P Code Section 8674 because they are awaiting staff review to determine whether the current fees are sufficient to cover the costs of processing the associated forms and because the examination fee increases that are

relative to computer based testing are already in the process of being increased legislatively.

The committee did not categorize B&P Code Section 8675 because they are awaiting staff review of B&P Code Section 8674 before addressing this section.

The committee did not categorize B&P Code Sections 8690, 8691, 8692, 8693, 8697, 8697.3 and 8697.5 because they have already been changed through legislation.

Mr. Whitmore stated that B&P Code Section 8698.3 has already been changed through PCOC.

Ms. Saylor stated that the committee does not need to categorize the CCR recommendations until after the B&P recommendations have been changed legislatively.

Mr. Whitmore stated that the committee asked him to look into the relevance of CCR Section 1970.5 and he suggested that the committee does not make any recommendations to change CCR Section 1970.5 because the definition is still necessary for fumigations that are performed not using CAP. He added that the requirements set forth in B&P Code section 1971 are more specifically addressed on the product labels and that this section is unnecessary.

Mr. Katz moved and Mr. Whitmore seconded to recommend to the Board to repeal CCR Section 1971. Passed unanimously.

~~**§1971. Fumigation Safety Kit and Other Equipment.**~~

~~(a) All fumigation crews shall be provided with and shall have in their possession on the job:~~

~~(1) A fumigation safety kit, in proper condition for use, containing at least the following:~~

~~(A) Statements of instructions published by the manufacturer of the fumigants being used.~~

~~(B) Two or more effective gas masks or other safety equipment approved by the National Institute of Occupational Safety and Health, for protection against the type of fumigant being used.~~

~~(C) A chart of instructions for artificial resuscitation.~~

~~(2) Proper testing equipment as required by the manufacturer's label instructions and all applicable laws and regulations.~~

~~(b) The crew shall be instructed in the use and care of kit and safety equipment and in first aid methods.~~

Ms. Brand moved and Mr. Whitmore seconded to recommend the Category 1 changes to the Board at the January board meeting. Passed unanimously.

Mr. Katz stated that the most recent changes to CCR Section 1996 were intended to make the inspection report more clear to the consumer and commented that he did not feel that the changes have achieved their intentions. He asked that at a future meeting the Inspection Report Form format be discussed and reconsidered.

Mr. Gordon stated that CCR sections 1990 and 1991 were tabled for Mr. Kanady's presence and still need to be discussed.

Mr. Katz stated that there are several sections that the committee is awaiting feedback before addressing.

Mr. Gordon stated that at least one whole meeting is going to be needed to discuss definitions.

Mr. Whitmore stated that the correspondence section needs to be revisited and that correspondence was received regarding CCR section 1953 that he does not think was ever addressed.

Mr. Good suggested that the committee better define what a "qualifying operator" is and what their responsibilities are.

Mr. Whitmore asked that the committee discuss adding the ability to prevent a person whose license has been revoked from working for a registered company to B&P Code Section 8654.

ADJOURNMENT

Mr. Kanady moved and Mr. Whitmore seconded to adjourn the meeting. Passed unanimously.

The meeting adjourned at 2:39 P.M.

Bob Gordon

Bob Gordon, Committee Chairperson

Susan Saylor

Susan Saylor, Executive Officer

3-5-2014

DATE