

**MINUTES OF THE STRUCTURAL PEST CONTROL BOARD  
ACT REVIEW COMMITTEE MEETING**

October 8, 2014

The meeting was held October 8, 2014 at the Structural Pest Control Board,  
2005 Evergreen Street, Lake Tahoe Conference Room, Sacramento, California

**Committee Members Present:**

Bob Gordon, Chairman  
Darrell Ennes  
Allen Kanady  
Mike Katz  
Lee Whitmore

**Board Staff Present:**

Susan Saylor, Executive Officer  
Robert Lucas, Assistant Executive Officer  
Tom Ineichen, Board Specialist  
Kristina Jackson Duran, Administrative Analyst

**Departmental Staff Present:**

Scott Allen, Legislative Analyst  
Kyle Muteff, Legal Counsel

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Gordon read roll call at 10:00 A.M. Quorum established.

**APPROVAL OF MINUTES OF THE SEPTEMBER 3, 2014 COMMITTEE MEETING**

Mr. Katz moved and Mr. Ennes seconded to approve the minutes of the  
September 3, 2014 Committee Meeting with the correction changing Committee  
member Alan Kanady's name to, Allen Kanady. 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 AND TO MAKE**  
**RECOMMENDATIONS TO THE BOARD**

Mr. Gordon stated that his intention for the meeting was for the Committee to go through all the Code Sections in the materials and make motions to recommend any proposed changes to the Board at the October 16 & 17, 2014 Board meeting.

Ms. Saylor introduced the Board's new Legislative Analyst, Scott Allen.

Mr. Gordon opened up discussion on B&P Code Section 8508.

Mr. Katz moved and Mr. Whitmore seconded to recommend the proposed changes to B&P Code Section 8508 to the Board. Passed unanimously.

**8508. "Household" means any structure and its contents which are used for man persons and his their convenience.**

Mr. Gordon opened up discussion on B&P Code Section 8513.

Mr. Ennes moved and Mr. Kanady seconded to recommend the proposed changes to B&P Code Section 8513 to the Board. Passed unanimously.

**8513. (a) The board shall prescribe a form entitled "Notice to Owner" that shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics lien laws and the rights and responsibilities of an owner of property and a registered pest control company thereunder. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.**

**(b) No company that is required to be registered under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.**

**(c) Each company registered under this chapter that acts as a subcontractor for another company registered under this chapter shall, within 20 days of commencement of any work for which a company registration is required, give the preliminary notice in accordance with Chapter 2 (commencing with Section 8200) of Title 2 of Part 6 of Division 4 of the Civil Code, to the owner, his or her agent, or the payer.**

**(d) Each company registered under this chapter that acts as a prime contractor for work for which a company registration is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics lien by any subcontractor entitled to enforce a mechanics lien pursuant to Section 8410 of the Civil Code.**

**(e) Each company registered under this chapter that subcontracts to another company registered under this chapter work for which a company registration is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.**

**~~(f) The provisions of this section shall be applicable only to those registered companies, as defined in Section 8506.1, operating pursuant to a Branch 1 or Branch 3 registration.~~**

**~~(g)~~ (f) A violation of the provisions of this section is a ground for disciplinary action.**

Mr. Gordon opened up discussion on B&P Code Section 8516.

The Committee extensively discussed B&P Code Section 8516 covering topics including- inspection reports prepared for use by an attorney for litigation, the recipient of an inspection report, the content to be included on an inspection report, and control service agreements and the requirements that pertain to them.

Mr. Ennes moved and Mr. Whitmore seconded to recommend the proposed changes to B&P Code Section 8516 to the Board. Passed unanimously.

**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). The address of an inspection report pursuant to Section 8516 prepared for use by an attorney for litigation purposes is not required to be reported to the board nor assessed a filing fee.

A written inspection report ~~conforming to this section and on~~ a form approved by the board shall be prepared and delivered to the person requesting the inspection and the property owner ~~person requesting the inspection or to the person's property owner's~~ designated agent within 10 business days ~~of from the start 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.~~ An inspection report may be a complete, limited, supplemental or reinspection report as defined in regulation. 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. All Original inspection reports or copies thereof shall be submitted to the board upon request demand within two business days. The following shall be set forth in the report:

- (1) The start date of the inspection and the name of the licensed field representative(s) or operator(s) making the inspection.
- (2) The name and address of the person or firm ordering the report.
- (3) The name and address of the property owner and 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, to include 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 including but not limited to, siding, studs, rafters, floor joists, fascia, subfloor, sheathing, and trim boards.

(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 or prevention 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 each 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 business days after a reinspection has been ordered.

(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 similar 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."

(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 Section (1) or Section (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, property owner or the property owner's designated agent(s) 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. If a guarantee extends beyond three (3) years the registered company shall maintain all original inspection reports, field notes, activity forms, and notices of completion for the duration of the guarantee period and for one (1) year after the guarantee expires.

(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.~~ 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. 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)~~ (A.) The wood destroying pests and organisms covered by the control service agreement.

(B.) 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 the original inspection report, ~~and agreement,~~

(2) The original inspection report, agreement, and completion report shall be maintained for three (3) years after the cancellation of the control service 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.

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

(34) 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.



**(45) Under a control service agreement 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.**

**(56) 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.~~**

**(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.**

Mr. Gordon opened up discussion on B&P Code Section 8516.5.

The Committee discussed B&P Code Section 8516.5 and agreed that it was no longer needed due to the changes recommended to B&P Code Section 8516.

Mr. Katz moved and Mr. Kanady seconded to recommend the deletion of B&P Code Section 8516.5 to the Board. Passed unanimously.

**~~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. Gordon opened up discussion on B&P Code Section 8517.

Mr. Whitmore moved and Mr. Kanady seconded to recommend no changes to B&P Code Section 8517. Passed unanimously.

Mr. Gordon opened up discussion on B&P Code Section 8519.

The Committee extensively discussed B&P Code Section 8519 covering the language to be used on, and the circumstances for issuing, certifications on inspection reports, reinspection reports, and limited inspection reports and notices of completion.

Mr. Kanady moved and Mr. Katz seconded to recommend the proposed changes to B&P Code Section 8519 to the Board. Passed unanimously.

**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, or a reinspection report pursuant to Section 8516 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)."

**(d) When a limited inspection report prepared pursuant to Section 8516 has disclosed no infestation or infection: "This is to certify that a limited inspection report was conducted on the area of the property described herein and has revealed no evidence of active infestation or infection in the visible and accessible areas inspected.**

**This certificate certification shall be included on and made part of accompanied by a copy of the complete, limited, supplemental or reinspection 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.**

Mr. Gordon opened up discussion on B&P Code Section 8519.5.

The Committee agreed to table discussion on B&P Code Section 8519.5 until the November 5, 2014 Committee Meeting.

Mr. Gordon opened up discussion on B&P Code Section 8550.

Mr. Ennes moved and Mr. Katz seconded to recommend the proposed changes to B&P Code Section 8550 to the Board. Passed unanimously.

**8550. (a) It is unlawful for any individual person to advertise, to engage, or offer to engage in the business or practice of structural pest control, as defined in Section 8505, unless he or she is licensed under this chapter.**

**(b) Notwithstanding subdivision (a), an unlicensed individual person may solicit pest control work on behalf of a structural pest control company only if the company is registered pursuant to this chapter, and the unlicensed individual does not perform or offer to perform any act for which an operator, field representative, or applicator license is required pursuant to this chapter. As used in this subdivision, to "solicit pest control work" means to introduce consumers to a registered company and the services it provides, to distribute advertising literature, and to set appointments on behalf of a licensed operator or field representative.**

**(c) It is unlawful for an unlicensed individual person, soliciting pest control work on behalf of a registered structural pest control company pursuant to subdivision (b), to perform or offer to perform any act for which an operator, field representative, or applicator license is required, including, but not limited to, performing or offering pest control evaluations**

or inspections, pest identification, making any claims of pest control safety or pest control efficacy, or to offer price quotes other than what is provided and printed on the company advertising or literature, or both.

(d) It is also unlawful for any unlicensed individual person to offer any opinion, or to make any recommendations, concerning the need for structural pest control work in general, or in connection with a particular structure.

(e) It is unlawful for any firm, sole proprietorship, partnership, corporation, association, or other organization or combination thereof to engage or offer to engage in the practice of structural pest control, unless registered in accordance with Article 6 (commencing with Section 8610).

Mr. Gordon opened up discussion on B&P Code Section 8551.

The Committee discussed B&P Code Section 8551 and agreed that it was no longer needed because its provisions are already covered in B&P Code Section 8550.

Mr. Katz moved and Mr. Whitmore seconded to recommend the deletion of B&P Code Section 8551 to the Board. Passed unanimously.

~~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.~~

Mr. Gordon opened up discussion on B&P Code Section 8552.

The Committee agreed to table the discussion on B&P Code Section 8552 until the November 5, 2014 Committee Meeting.

Mr. Gordon opened up discussion on B&P Code Section 8553.

Mr. Ennes moved and Mr. Whitmore seconded to recommend the proposed changes to B&P Code Section 8553 to the Board. Passed unanimously.

**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.**

Mr. Gordon opened up discussion on B&P Code Section 8555.

Mr. Katz moved and Mr. Ennes seconded to recommend the proposed changes to B&P Code Section 8555 to the Board. Passed unanimously.

**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.~~

Mr. Gordon opened up discussion on B&P Code Section 8611.

Mr. Katz moved and Mr. Ennes seconded to recommend the proposed changes to B&P Code Section 8611 to the Board. Passed unanimously.

**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.

Mr. Gordon opened up discussion on B&P Code Section 8616.9.

Mr. Kanady moved and Mr. Ennes seconded to recommend the proposed changes to B&P Code Section 8616.9 to the Board. Passed unanimously.

**8616.9. (a)** If an employee is found during an inspection or investigation not wearing personal protective equipment required by label or regulation, the commissioner may cite the employee ~~shall have the option to use discretion in citing an employer only if~~ the employer provides evidence of all of the following ~~is provided~~:

(a 1) The employer has a written training program, has provided training to the employee, and has maintained a record of training as required by regulation.

(b 2) The employer provided personal protective equipment required by label or regulation, the equipment was available at the site when the employee was handling the pesticide or pesticides, and the equipment was properly maintained and in good working order.

(c 3) The employer is in compliance with regulations relating to the workplace and supervision of employees.

(d 4) The employer has implemented and adheres to a written company policy of disciplinary action for employees who violate company policy or state or local laws or regulations.

(e 5) The employer has not been cited for violation of this section for the previous two (2) years ~~history of repeated violations of this section~~.

(b) If an employee is found during an inspection or investigation not wearing personal protective equipment required by label or regulation, the commissioner may cite the employer if the employer does not provide evidence of all of the criteria in subdivision (a) (1)-(5).

Mr. Gordon opened up discussion on B&P Code Section 8663.

Mr. Whitmore moved and Mr. Kanady seconded to recommend the proposed changes to B&P Code Section 8663 to the Board. Passed unanimously.

**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 regulation, 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 regulation 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.**

**(d) 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 regulation 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.~~**

**(ed) 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.**

Mr. Gordon opened up discussion on B&P Code Section 8666.

Mr. Whitmore moved and Mr. Kanady seconded to recommend no changes to B&P Code Section 8666. Passed by majority. (AYES: Gordon, Ennes, Kanady, Whitmore. ABSTENTIONS: Katz.)

Mr. Gordon opened up discussion on B&P Code Section 8698.3.

Mr. Kanady moved and Mr. Whitmore seconded to table discussion on B&P Code Section 8698.3. Passed unanimously.

#### **PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

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

#### **FUTURE MEETING DATES**

The following two meetings were previously scheduled for November 5, 2014 in Orange County, and December 3, 2014 in Sacramento.

#### **ADJOURNMENT**

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

The meeting adjourned at 4:00 P.M.



Bob Gordon, Chairman



Date