

MINUTES OF THE
STRUCTURAL PEST CONTROL BOARD ACT REVIEW COMMITTEE MEETING
April 2, 2014

The meeting was held on Wednesday, April 2, 2014 at the Structural Pest Control Board, Lake Tahoe Conference Room, 2005 Evergreen Street, 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, Consumer Services Manager
David Skelton, Administrative Analyst
Ronni O'Flaherty, Administrative Analyst
Tom Ineichen, SPCB Specialist

Departmental staff present:

Kyle Muteff, Legal Counsel
Ryan Arnold, DCA Legislative Analyst

Board member Curtis Good was also in attendance.

ROLL CALL/ESTABLISHMENT OF QUORUM

Mr. Gordon read roll call at 9:15 A.M., quorum established.

APPROVAL OF MINUTES OF THE MARCH 5, 2014 COMMITTEE MEETING

Mr. Katz moved and Mr. Kanady seconded to approve the minutes from the March 5, 2014 Committee Meeting. Passed unanimously.

**REVIEW OF THE STRUCTURAL PEST CONTROL ACT AND TITLE 16,
CALIFORNIA CODE OF REGULATIONS, FOR THE PURPOSE OF UPDATE AND
IDENTIFYING CONTINUED NEED AND/OR USE AND TO MAKE
RECOMMENDATIONS TO THE BOARD**

Mr. Lucas introduced Kevin Lau, Structural Pest Control Board, Enforcement Unit, and stated that Mr. Lau would be observing the meeting.

Ms. Saylor stated that G.V. Ayers, Senate Consultant, Business, Professions & Economic Development Committee, asked her to send the Committee recommendations which were approved by the Board at the March 27, 2014 Board Meeting for possible inclusion in the Board's Sunset Bill.

Mr. Ennes inquired as to the possibility of the Board's Sunset Date being removed thereby indefinitely extending the Board's regulatory authority.

Mr. Arnold stated that the trend has been to add more Sunset Dates and that the possibility of having one removed completely was extremely unlikely.

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

The Committee agreed to identify recommendations for change to B&P Code Section 8516 but to delay making an official recommendation until such time as all issues, including regulatory, could be identified.

Mr. Gordon stated that the Committee had previously considered changing the word "original" in B&P Code Section 8516, subdivision (b), paragraph 4 to properly align with form 43-M41.

After much discussion the Committee agreed to go through B&P Code Section 8516 and at that time identify regulatory issues associated with any statutory changes they might recommend.

Mr. Muteff suggested the Committee consider recommending the term "owner" in subdivision (b), paragraph 4, of B&P Code Section 8516 be changed to "property owner" in order to make it less vague.

After much discussion the Committee agreed to change the term "owner" in subdivision (b), paragraph 4, of B&P Code Section 8516, to "the property owner or the property owner's designated agent."

The Committee began a discussion about striking the word "written" from subdivision (b), paragraph 4, of B&P Code Section 8516.

Mr. Gordon stated that removing the word “written” is a necessary step in order to bring the Act up to date with what is happening in the industry.

Mr. Ineichen stated that removing the word “written” could create situations where unscrupulous operators fail in their reporting requirements and use B&P Code Section 8516 as justification for doing so.

Mr. Good stated that because the requirement exists to prepare the inspection report on a form approved by the Board removing the word “written” would still preclude operators from attempting to satisfy their reporting requirement verbally.

Mr. Lucas stated that more research should be done to ascertain the ramifications of removing the word “written.”

Mr. Muteff stated that if the Committee wishes it can direct staff to research the issues related to removing the “written” and recommend language back to the Committee after doing so.

After much discussion the Committee asked staff to recommend language that would help facilitate the removal of the word “written” from subdivision (b), paragraph 4, of B&P Code Section 8516.

Mr. Gordon opened up discussion on striking the word “original” from subdivision (b), paragraph 4, of B&P Code Section 8516.

The Committee agreed to strike the word “original” from subdivision (b), paragraph 4, of B&P Code Section 8516.

Mr. Gordon opened up discussion on striking the word “original” from subdivision (b), paragraph 5, of B&P Code Section 8516.

The Committee agreed to strike the word “original” from subdivision (b), paragraph 5, of B&P Code Section 8516 and add the word “All” in its place.

Mr. Gordon opened up discussion on subdivision (b), subsection (1) of B&P Code Section 8516.

Mr. Gordon suggested changing the phrase “The date of the inspection” to, “The commencement date of the inspection”.

Mr. Ineichen stated that the word “commencement” can be interpreted to convey a different meaning than the Committee intends.

The Committee agreed to strike the word “commencement” from subsection (b), paragraph 4, of B&P Code Section 8516 and replace it with the word “start”.

The Committee agreed to add the word “start” to subsection (b), subsection (1), of B&P Code Section 8516 as follows “The start date of the inspection...”.

The Committee agreed to add a plural “s”, in parentheses, to the words “field representative” and “operator” in subdivision (b), subsection (1), of B&P Code Section 8516 as follows “field representative(s) or operator(s)”.

The Committee discussed and agreed to add “the property owner and” to the subdivision (b), subsection (3) of B&P Code Section 8516 as follows “The name and address of the property owner and any person who is a party in interest.”

Mr. Gordon opened up discussion on subdivision (b), subsection (5) of B&P Code Section 8516.

Mr. Katz stated that a regulation should be created that further defines the term “general description” in subdivision (b), subsection (5) of B&P Code Section 8516.

Mr. Gordon opened up discussion on subdivision (b), subsection (6) of B&P Code Section 8516.

The Committee agreed to the following changes to subdivision (b), subsection (6) of B&P Code Section 8516.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected,.

(A) Indicate on the foundational diagram or sketch 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 (i.e. siding, studs, rafters, floorjoist, fascia, subfloor, sheathing, trim boards, etc.)

The following is B&P Code Section 8516 with the changes discussed by the Committee at this meeting.

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 property owner person requesting the inspection or ~~to the person's~~ property owner's designated agents within 10 business days ~~of from the commencement~~ 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. 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 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;

(A) Indicate on the foundational diagram or sketch 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 (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 business 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 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.

(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 the proposed change to B&P Code Section 8505.17.

Mr. Katz asked why pest control companies would be required to keep pesticide use report records for 3 years when the Department of Pesticide Regulation (DPR) already keeps those records.

Kathy Boyle, DPR Staff Environmental Scientist, stated that pest control companies would be required to keep pesticide use report records for 3 years for audit purposes.

Josh Adams, PCOC stated that the pesticide use reporting requirements are vague about whether to report pesticide amounts before or after they have been mixed.

Mr. Muteff stated that concentration levels and how they pertain to reporting requirements can be defined in regulation.

Ms. Saylor stated that B&P Code Section 8505.17 was included in the discussion at this Committee meeting with the possibility of having any proposed changes included in the Board's Sunset Bill.

Mr. Whitmore moved and Mr. Ennes seconded to recommend the proposed changes to B&P Code Section 8505.17 to the Board. Passed unanimously.

8505.17. (a) There is hereby continued in existence in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Pesticide Regulation for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 and Section 15202 of the Food and Agricultural Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

(b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section

8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.

(c) Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide and, the amount used, ~~and the number of applications made~~. The report shall be submitted to the commissioner by the 10th day of the month following the month of application, and a copy maintained by the licensee for a period of three years from the report submission date. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall ~~have affixed thereto~~ require a pesticide use stamp or stamp number issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and stamp numbers and for the refund of moneys paid for stamps and stamp numbers which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. No pesticide use stamp or stamp number is required on negative use reports.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

Mr. Gordon opened up discussion on the proposed change to B&P Code Section 8674.

Ms. Saylor stated that the fees derived from the sale of pesticide use stamps fund County Agricultural Commissioner.

Ms. Boyle asked if current pesticide use filing fees are enough to fund future research the Board may desire.

Ms. Saylor stated that the Board currently charges \$6 for each stamp but the statutory limit is \$7.

Mr. Arnold stated that there could be a problem with proposing to raise a statutory limit when the Board is not currently charging the limit already in place.

Mr. Gordon asked if issuing stamps electronically could lower costs.

Ms. Saylor stated that issuing stamps electronically could lower costs a little and that another option is to allow pest control companies to maintain pesticide use filing accounts into which money could be deposited and used.

Mr. Whitmore moved and Mr. Kanady seconded to recommend the proposed changes to B&P Code Section 8674 to the Board. Passed unanimously.

8674. The fees prescribed by this chapter are the following:

- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than twenty-five dollars (\$25).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).
- (g) A branch office registration fee of not more than sixty dollars (\$60).
- (h) A field representative's examination fee of not more than fifteen dollars (\$15).
- (i) A field representative's license fee of not more than forty-five dollars (\$45).
- (j) A field representative's license renewal fee of not more than forty-five dollars (\$45).
- (k) An applicator's examination fee of not more than fifteen dollars (\$15).
- (l) An applicator's license fee of not more than fifty dollars (\$50).
- (m) An applicator's license renewal fee of not more than fifty dollars (\$50).
- (n) An activity form fee, per property address, of not more than three dollars (\$3).
- (o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).
- (p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.
- (q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).
- (r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.
- (s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).
- (t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp or stamp number purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited ~~with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel~~ or into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control

~~research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.~~

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(5) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

Mr. Gordon opened up discussion on the proposed change to B&P Code Section 8516.5.

Mr. Muteff stated for the Committee that the proposed removal of B&P Code Section 8516.5 leaves a gap in consumer protection without the proposed additions to B&P Code Section 8516 discussed earlier in the meeting by the Committee.

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

~~**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 the proposed change to B&P Code Section 8517.

Mr. Muteff stated that B&P Code Section 8517 is referred to in a number of other code sections throughout the act and its deletion would leave blank spots in the Act.

Mr. Whitmore moved and Mr. Kanady seconded to not recommend any changes to B&P Code Section 8517 to the Board. Passed unanimously.

Mr. Gordon opened up discussion on the proposed change to B&P Code Section 8519.

Mr. Muteff stated that any proposed recommendations for change to B&P Code Section 8519 should be made in conjunction with changes to B&P Code Section 8516.

Mr. Lucas stated that limited inspections are defined in regulations but need to be defined in B&P Code Section 8516.

The Committee agreed to table the discussion on B&P Code Section 8519 until the May 7, 2014 Committee meeting.

Mr. Gordon opened up discussion on the proposed change to B&P Code Section 8519.5.

The Committee agreed to table the discussion on B&P Code Section 8519.5 until the May 7, 2014 Committee meeting where Mr. Whitmore will provide suggested language.

Mr. Gordon opened up discussion on the proposed change to B&P Code Section 8551.

Mr. Muteff stated that statutes are written to convey clear meaning to all persons and that if the Committee recommends the removal of B&P Code Section 8551 it should offer a clear explanation as to why.

Mr. Katz stated that no person could possibly think that an unlicensed person could perform fumigations and that in light of the language contained in B&P Code Section 8505.2, B&P Code Section 8551 is unnecessary.

Mr. Kanady 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 the proposed change to B&P Code Section 8553.

Mr. Whitmore moved and Mr. Ennes seconded to recommend the proposed change of 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 the proposed change to B&P Code Section 8611.

Mr. Whitmore moved and Mr. Katz 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 the proposed change to B&P Code Section 8616.9.

Mr. Whitmore stated that some counties have interpreted this code section to mean that only licensees and not companies can be cited.

Mr. Whitmore stated that a broader discussion on licensee discipline needs to occur.

Mr. Muteff suggested that the proposed changes be re-written to clearly give authority to cite both employers and employees.

The Committee agreed to table the discussion on B&P Code Section 8616.9 until the May 7, 2014 Committee meeting.

FUTURE MEETING DATES

The next meeting which was previously scheduled for May 7, 2014 in Los Angeles was changed to May 7, 2014 in Sacramento.

The following meeting was previously scheduled for July 11, 2014 in San Diego to coincide with the Board Meeting.

ADJOURNMENT

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

The meeting adjourned at 2:59 P.M.



Bob Gordon, Committee Chairperson



Susan Saylor, Executive Officer

5-7-2014

DATE