

MINUTES OF THE STRUCTURAL PEST CONTROL BOARD
ACT REVIEW COMMITTEE MEETING
May 7, 2014

The meeting was held May 7, 2014 at the Structural Pest Control Board, Silverwood Lake Conference Room, 2005 Evergreen Street, Sacramento, California.

Committee Members Present:

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

Board Staff Present:

Susan Saylor, Executive Officer
Robert Lucas, Consumer Services Manager
David Skelton, Administrative Analyst
Ed Ackerman, SPCB Specialist
Fred Bartley, SPCB Specialist
Tom Ineichen, SPCB Specialist

Departmental Staff Present:

Kyle Muteff, Legal Counsel

Board member Curtis Good was also present.

ROLL CALL/ESTABLISHMENT OF QUORUM

Mr. Gordon read roll call at 9:37 A.M., quorum established.

APPROVAL OF MINUTES FROM THE APRIL 2, 2014 COMMITTEE MEETING

Mr. Ennes moved and Mr. Whitmore seconded to approve the minutes from the April 2, 2014 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 AND TO MAKE RECOMMENDATIONS TO THE BOARD

Mr. Gordon opened up discussion on the recommendation by staff to add the sentence “An inspection report may be a complete, limited, supplemental, or re-inspection report.” to the fourth paragraph of subsection (b) of B&P Code Section 8516.

Mr. Muteff stated that the proposed addition of “An inspection report may be a complete, limited, supplemental, or re-inspection report.” to the fourth paragraph of subsection (b) of B&P code section 8516 was suggested to provide the Board with clear statutory authority to further define those terms in regulations.

The Committee agreed to recommend the addition of “An inspection report may be a complete, limited, supplemental, or re-inspection report.” to the fourth paragraph of subsection (b) of B&P Code Section 8516 and to make a motion to that effect when all changes to B&P Code Section 8516 have been agreed upon.

Mr. Gordon opened up discussion on the changes recommended by staff to B&P Code Section 8616.9.

Kathy Boyle, Department of Pesticide Regulation, Staff Environmental Scientist stated that the phrases “label and regulation” and “label or regulation” are both proposed and asked if the Committee wished to choose one or the other.

The Committee agreed to use the phrase “label and regulation” throughout B&P Code Section 8616.9.

The Committee discussed various issues relating to the proposed changes to B&P Code Section 8616.9 including the ways in which the counties use this code section for enforcement purposes and if their input is needed, the threshold at which companies should be held responsible for their employees failure to use personal protective equipment (PPE), and how the counties keep records of repeated violations by employers and employees.

Mr. Katz moved and Mr. Ennes seconded to recommended the proposed changes to B&P Code Section 8616.9 to the Board. Passed by majority. (AYES: Ennes, Kanady, Katz. NAYS: Whitmore)

8616.9 (a) If an employee is found during an inspection or investigation not wearing personal protective equipment required by label and 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 and 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 and 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. Whitmore stated that he will seek input from the CAC's to bring to the July 11, 2014 Committee meeting for use in the discussion about adding B&P Code Section 8616.8.

Mr. Gordon opened up discussion on proposed changes to B&P Code Section 8516, subdivision (f).

The Committee discussed the difference between control service agreements and extended warranties and the need to define a time period and record keeping requirement for those practices.

Mr. Katz moved and Mr. Ennes seconded to recommend the proposed changes to B&P Code Section 8516, subdivision (f) to the Board. Passed unanimously.

(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 three (3) years after the guarantee expires.

Mr. Gordon opened up discussion on proposed changes to B&P Code Section 8516, subdivision (b), subsection (11).

Mr. Gordon stated that the phrase "or prevention" should be added to B&P Code Section 8516, subdivision (b), subsection (11).

Mr. Kanady moved and Mr. Ennes seconded to recommend the proposed change to B&P Code Section 8516, subdivision (b), subsection (11) to the Board. Passed unanimously.

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

Mr. Gordon opened up discussion on proposed changes to B&P Code Section 8516, subdivision (b), subsection (13).

Mr. Ineichen stated that reports issued by various companies should have similar findings but not necessarily the same findings.

Mr. Kanady moved and Mr. Katz seconded to recommend the proposed change to B&P Code Section 8516, subdivision (b), subsection (13) to the Board.
Passed unanimously.

(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.”

Mr. Gordon opened up discussion on proposed changes to B&P Code Section 8516, subdivision (b), subsection (13), paragraph 2.

The Committee discussed the requirement that a company provide an estimate for the corrective measures it has identified and how to give a company the option of not providing an estimate while still requiring the company to itemize the estimate if it chooses to provide one.

Mr. Katz moved and Mr. Ennes seconded to delegate to staff the task of recommending proposed changes to B&P Code Section 8516, subdivision (b), subsection (13), paragraph 2 to the Committee at the July 11, 2014 meeting.
Passed unanimously.

Mr. Gordon opened up discussion on proposed changes to B&P Code Section 8516, subdivision (b), subsection (13), paragraph 4.

Mr. Whitmore moved and Mr. Ennes seconded to recommend the proposed change to B&P Code Section 8516, subdivision (b), subsection (13), paragraph 4 to the Board. Passed unanimously.

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.

FUTURE MEETING DATES

The next meeting was previously scheduled for July 11, 2014 in San Diego

ADJOURNMENT

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

The meeting adjourned at 2:33 P.M.



Bob Gordon, Committee Chairperson



Susan Saylor, Executive Officer

7-11-2014

Date