

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

November 5, 2014

The meeting was held Wednesday, November 5, 2014 at the Orange County Agricultural Commissioner, Library Room, 222 E Bristol Lane, Orange, California

**Committee Members Present:**

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

**Board Staff Present:**

Susan Saylor, Executive Officer  
Robert Lucas, Assistant Executive Officer  
David Skelton, Administrative Analyst

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Gordon called roll at 9:10 A.M. Quorum established.

**APPROVAL OF MINUTES OF THE OCTOBER 8, 2014 COMMITTEE MEETING**

Mr. Kanady moved and Mr. Ennes seconded to approve the minutes of the October 8, 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 B&P Code Section 8519.5.

Mr. Whitmore stated that he would bring back recommendations for change to B&P Code Section 8519.5 at the December 3, 2014 Committee Meeting.

Mr. Whitmore moved and Mr. Ennes seconded to table discussion on B&P Code Section 8519.5 until the December 3, 2014 Committee Meeting. Passed unanimously.

Mr. Gordon opened up discussion on the laws and regulations relating to in-ground bait stations and monitoring systems.

Mr. Katz stated that he would work on recommendations relating to in-ground bait stations and monitoring systems and bring them to a future Committee Meeting.

Mr. Gordon opened up discussion on California Code of Regulations (CCR) Section 1970.4.

The Committee discussed the permissibility of the Occupants Fumigation Notice (OFN) being present in electronic form at the time the fumigant is released.

Peggy Byerly, Senior Environmental Scientist, Department of Pesticide Regulation, stated that currently, many counties do not accept an electronic copy of the OFN to be present at the time the fumigant is released.

Mr. Whitmore moved and Mr. Katz seconded to recommend to the Board the following changes to CCR Section 1970.4. Passed unanimously.

**§ 1970.4. Pesticide Disclosure Requirement.**

**(a) The primary contractor for fumigation shall have in his or her possession and shall provide to any subcontractor for fumigation a form (See Form 43M-48 (Rev. 5/07) at the end of this section) signed by the occupants or designated agent of a structure. The primary contractor for fumigation and the subcontractor for fumigation shall retain a copy of the occupants fumigation notice for a period of at least three years. In case of multiple-family dwellings, the owner, manager or designated agent of the building may obtain signatures and/or verify the notification of the occupants.**

**The form shall state the name of the pest to be controlled, the pesticide(s)/fumigant(s) proposed to be used, the active ingredient(s) and the health cautionary statement as required under section 8538 of the code. The form shall also state that a lethal gas (poison) will be used in the**

building on indicated dates and that it is unsafe to return to the building until a certification notice for reentry is posted by the licensed fumigator. The form shall also indicate that the occupant has received the prime contractor's information regarding the procedures for leaving the structure. The properly signed form or a copy, written or electronic, thereof shall be in the possession of the licensed fumigator when the fumigant is released. Such form shall be attached to and become a permanent part of the fumigation log upon completion of the fumigation.

(b) Any death or serious injury relating to pesticide application or use, whether to a worker or member of the public, shall be reported to the nearest Structural Pest Control Board office immediately.

(c) Whenever a licensee employed by a branch 2 or branch 3 registered company applies a pesticide within, around or to any structure such person shall leave in a conspicuous location a written notice identifying the common, generic or chemical name of each pesticide applied. In case of a multiple family structure, such notice may be given to the designated agent or the owner. Such pesticide identification notice may be a door hanger, invoice, billing statement or other similar written document which contains the registered company's name, address, and telephone number.

(d) All pest control operators, field representatives, applicators and employees in all branches shall comply in every respect with the requirements of section 8538 of the code. Failure to comply with section 8538 of the code is a misdemeanor and shall constitute grounds for discipline.

(e) Where notification is required under section 8538 of the code, and the premises on which the work is to be performed is a multiple family dwelling consisting of more than 4 units, the owner/owner's agent shall receive notification and other notices shall be posted in heavily frequented, highly visible areas including, but not limited to, all mailboxes, manager's apartment, in all laundry rooms, and community rooms on all external pest control servicing. Complexes with fewer than 5 units will have each affected unit notified. Any pest control servicing done within a tenant's apartment requires that the tenant be notified according to section 8538 of the code.

(f) A registered company which applies any pesticide within, around or to any structure shall provide to any person, within 24 hours after request therefore, the common, generic or chemical name of each pesticide applied.

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

The Committee discussed the language in B&P Code Section 8552 as it relates to repair work that is performed by unlicensed individuals.

Mr. Katz moved and Mr. Ennes seconded to recommend to the Board the following changes to B&P Code Section 8552. Passed unanimously.

**8552. It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a registered company, except as otherwise provided in this chapter ~~registered under this chapter.~~**

Mr. Gordon opened up discussion on CCR Section 1911.

The Committee discussed licensees that fail to inform the Board when they disassociate from a registered company and the inability of the registered company to contact the Board and have them removed from its employee listing.

Mr. Ennes moved and Mr. Kanady seconded to recommend to the Board the following changes to CCR Section 1911. Passed unanimously.

**§ 1911. Addresses; Change of Address/Employment.**

**Each operator, field representative and applicator shall file his or her address of record with the board and shall notify the board of any change in address within ten (10) days of such change. The address of record of a field representative, an operator or an applicator shall be the address of the registered company by which he or she is employed or with which he or she is associated or his or her residence address if he or she is not employed and associated.**

**Each licensee shall also file his or her address for mailing purposes with the board and shall notify the board of any change in address within ten (10) days of such change.**

**A registered company may notify the Board, in writing or by electronic means, of an employee's disassociation.**

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

Mr. Katz moved and Mr. Ennes seconded to recommend to the Board the following changes to B&P Code Section 8698.3. Passed unanimously.

**8698.3. (a) The Director of the Department of Pesticide Regulation or a commissioner of any county listed in Section 8698 may levy a civil penalty against a person or company violating this chapter, including any regulation adopted pursuant to this chapter for failing to comply with Section 8698.1.**

**(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard, including the right to review the director's evidence and a right to present evidence on his or her own behalf.**

**(c) Review of the decision of the director may be sought by the person against whom the penalty was levied, within 30 days of receiving notice of the decision, pursuant to Section 1094.5 of the Code of Civil Procedure.**

**(d) After the exhaustion of the review procedure provided in this section, the director, or his or her representative, may file a certified copy of a final decision of the director that directs the payment of a civil penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.**

Mr. Gordon opened up discussion on B&P Code Section 8506.2.

The Committee discussed B&P Code Section 8506.2 and the responsibilities of a qualifying manager to supervise the daily business and employees of a registered company.

Mr. Kanady moved and Mr. Whitmore seconded to recommend to the Board the following changes to B&P Code Section 8506.2. Passed unanimously.

**8506.2. A "qualifying manager" is the licensed operator or operators designated by a registered company to supervise the daily business of the company and to be physically present at the principle office or branch office(s) location for a minimum of seventy-two (72) hours every three (3) consecutive calendar months to supervise and assist the company's employees. These hours shall be documented and provided to the Board upon request available to supervise and assist the company's employees.**

Mr. Gordon opened up discussion on B&P Code Sections 8571 and 8613.

The Committee discussed the conflicting language in B&P Code Sections 8571 and 8613 relating to the requirements for notifying the Board of changes in qualifying managers.

Mr. Ennes moved and Mr. Katz seconded to recommend to the Board the following changes to B&P Code Section 8613. Passed unanimously.

**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, sole proprietors, partners, or its bond or insurance shall notify the registrar in writing of such change within 3010 days thereafter. A fee for filing such changes shall be charged in accordance with Section 8674.**

Mr. Gordon opened up discussion on creating definitions for the Structural Pest Control Act.

The Committee crafted language to define the term “signature” as follows “A mark or sign by an individual on an instrument or document to signify knowledge, approval, acceptance, or obligation.” and planned to make a motion to recommend it when all definitions have been created.

The Committee agreed to bring back recommendations for other definitions at the December 3, 2014 Committee Meeting.

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

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

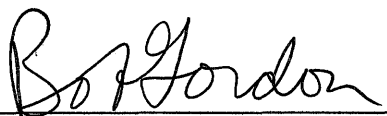
#### **FUTURE MEETING DATES**

The next meeting was previously scheduled for December 3, 2014 in Sacramento.

The following 3 meetings were scheduled for January 16, 2015 in San Diego, February 11, 2015 in Sacramento, and March 27, 2015 in Sacramento.

**ADJOURNMENT**

The meeting adjourned at 1:10 P.M.



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Bob Gordon, Chairman

12-3-2014

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Date