

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

December 3, 2014

The meeting was held December 3, 2014 at the Department of Consumer Affairs,  
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, Assistant Executive Officer  
Kathy Boyle, Chief Enforcement Officer  
Tom Ineichen, Board Specialist  
David Skelton, Administrative Analyst

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Gordon read roll call at 10:02 A.M. Quorum established.

**APPROVAL OF MINUTES OF THE NOVEMBER 5, 2014 COMMITTEE MEETING**

Mr. Katz moved and Mr. Ennes seconded to approve the Minutes of the  
November 5, 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 stated that any recommendations made by the Committee at this meeting  
would be considered by the Board at the January 14 & 15, 2015 Meeting along with the  
Committee's other recommendations.

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

Mr. Whitmore stated that after consulting with the Deputy Agricultural Commissioners of Los Angeles and Orange Counties, they felt that it would be beneficial for the law to be more clear as to whether a company, or an individual should be cited for violations other than those related to personal protective equipment and requested that Board staff prepare language to provide more clarity.

Mr. Ineichen stated that from an enforcement perspective it would be beneficial to have more clear guidelines on when a company, employee, or both should be cited for violations other than those for failing to wear the proper personal protective equipment.

Mr. Whitmore moved and Mr. Ennes seconded to direct staff to create language in conjunction with the Los Angeles and Orange County Agricultural Commissioners to bring to the February 11, 2015 Committee Meeting to amend B&P Code Section 8616.9 to provide guidelines for when an employee, or a company can be cited for violations other than those related to the failure to wear the proper personal protective equipment. Passed unanimously.

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

Mr. Whitmore presented to the Committee recommendations to amend B&P Code Section 8519.5.

The Committee extensively discussed the proposed amendments to B&P Code Section 8519.5 focusing specifically on the following-

- Fumigation certifications and to whom they should be issued.
- The procedures that should be followed by registered Branch 1 and Branch 3 companies when a consumer elects to either allow a Branch 3 company to subcontract a fumigation or when a consumer elects to contract directly with a Branch 1 company.
- Potential failed fumigations and where the responsibility for verification and reinspection lays in circumstances where a consumer elects to allow a Branch 3 company to subcontract a fumigation, or where a consumer elects to contract directly with a Branch 1 company.
- Fumigation warranty procedures.

Mr. Whitmore moved and Mr. Ennes seconded to recommend to the Board the following changes to B&P Code Section 8519.5. Passed unanimously.

**8519.5. (a) After an inspection report has been prepared by a Branch 3 registered company pursuant to Section 8516, which discloses a wood destroying pest or organism that can be eradicated by fumigation, and the fumigation has been duly performed by a Branch 1 registered company, the Branch 1 registered company, on a company document that identifies the licensee performing the fumigation and the name and address of the registered company, shall issue the following certification: "This is to certify that the property located at \_\_\_\_ (address) was fumigated on \_\_\_\_ (date) for the extermination of \_\_\_\_ (target pest)." This certification shall be issued to the person ordering the fumigation and to the registered company that prepared the inspection report within five working days after completing the fumigation.**

**(1) Where a consumer has authorized a Branch 3 registered company to subcontract the fumigation to a Branch 1 registered company, a copy of the certification described in paragraph (a) above shall accompany any reinspection report, notice of work completed pursuant to Section 8518, or any certification issued by the Branch 3 registered company.**

**(2) Where the consumer has elected to contract directly with a Branch 1 registered company to perform a fumigation, the Branch 1 registered company shall also provide the certification described in paragraph (a) above to the consumer ordering the fumigation. ~~the distribution of any documents pertinent to the fumigation shall be the responsibility of the Branch 1 registered company.~~**

**(b) Any warranty for a fumigation shall be provided in writing by the registered company contracting with the owner or the owner's designated agent.**

**(c) In the event of a potential failed fumigation the following shall apply performed by a Branch 1 registered company that has contracted directly with the consumer, the Branch 1 registered company shall do all of the following:**

**(1) A Branch 3 registered company and the Branch 1 registered company that performed the fumigation shall verify the need for a refumigation. The consumer shall not be charged for this inspection.**

**(2) The Branch 3 registered company shall issue an inspection report in accordance with 8516. ~~Maintain with the original inspection report, on a company document, all of the following:~~**

**(A) ~~The name of the current owner of the structure fumigated, the address of the structure, and the date of the failed fumigation.~~**

**~~(B) An explanation of the need for refumigation.~~**

**~~(C) The proposed date for the refumigation.~~**

**(3) In the event of a refumigation, a new certification and any additional warranty shall be issued to the owner or the owner's designated agent. Within five working days after the completion of the refumigation, the Branch 1 registered company, on a company document, shall file with the current owner, and the Branch 3 registered company whose report was used for the original**

~~fumigation, information regarding the completion of the refumigation, a new certification, and any warranty or guarantee.~~

Mr. Gordon opened up discussion on In-Ground Termite Bait / Monitoring Stations, California Code of Regulations (CCR) Sections 1993.2 and 1993.3.

Mr. Katz stated that he was interested in providing a service to consumers by placing a monitor in the ground, free of charge, that would indicate the presence of termites and alert a consumer that a full termite inspection might be necessary but that current regulation doesn't allow such a service to be provided unless it is under the provisions of a control service agreement.

Mr. Ineichen stated that placing a monitor in the ground could give consumers a false sense of security about their home being protected and that if such a service were to be provided it should be required to come with a disclosure outlining exactly what the monitor does, and does not do.

The Committee asked staff to review the regulatory package that was submitted when CCR Sections 1993.2 and 1993.3 were added and report back on the issues that were raised during that process.

The Committee asked staff to report back on the competing consumer protection issues raised by the added consumer protection a monitoring system might provide versus the potential false sense of security it could create.

#### **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 January 16, 2015 in San Diego.

The following 2 meetings were previously scheduled for February 11, 2015 in Sacramento, and March 27, 2015 in Sacramento.

**ADJOURNMENT**

The meeting adjourned at 2:04 P.M.

  
\_\_\_\_\_  
Bob Gordon, Chairman

7-29-2015  
\_\_\_\_\_  
Date