

MINUTES OF THE
STRUCTURAL PEST CONTROL ACT REVIEW COMMITTEE
MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
September 23, 2013

The meeting was held on Monday, September 23, 2013, at Structural Pest Control Board, 2005 Evergreen Street, Sacramento, California, commencing at 9:03 A.M. with the following members present:

Bob Gordon, Chairman
Darrell Ennes
Mike Katz
Lee Whitmore

Board staff present:

Susan Saylor, Executive Officer
Robert Lucas, Consumer Services Manager
Ronni O'Flaherty, Staff Services Analyst

Departmental staff present:

Kurt Heppler, Legal Counsel
Kyle Muteff, Legal Counsel

ROLL CALL

Mr. Gordon read roll call.

APPROVAL OF MINUTES FROM THE MAY 29, 2013 COMMITTEE MEETING

The approval of the minutes of the May 29, 2013 meeting was deferred to the next meeting.

**REVIEW OF THE STRUCTURAL PEST CONTROL ACT AND TITLE 16,
CALIFORNIA CODE OF REGULATIONS, FOR PURPOSES OF UPDATING AND
IDENTIFYING CONTINUED NEED AND/OR USE**

Mr. Gordon stated that Allen Kanady would like to be involved in the discussions regarding California Code of Regulations (CCR) Sections 1991, 1992, and 1993 and suggested that the committee discuss these items at the October committee meeting.

Mr. Ennes moved and Mr. Whitmore seconded to table the discussion of CCR Sections 1991 through 1993 until October's meeting. Passed unanimously.

The committee reviewed CCR Section 1996.

Mr. Ennes moved and Mr. Katz seconded to recommend to the Board to remove "written" from CCR Section 1996. Passed unanimously.

§1996. Requirements for Reporting All Inspections Under Section 8516(b).

(a) A ~~written~~ inspection report conforming to section 8516(b) of the code (See Form No. 43M-41 (Rev. 10/01, required use effective July 1, 2003) at the end of this section) shall be prepared and delivered to the person requesting the inspection, or to the person's designated agent regardless of whether the registered company has offered to perform the inspection without charge. The granting of permission to make an inspection shall be deemed a request to make an inspection.

(b) The failure or refusal of the person ordering the inspection or of his or her designated agent to pay for such inspection or report shall not excuse a registered company which has commenced an inspection from preparing and delivering a report to the person requesting the inspection or the person's designated agent.

The committee reviewed the Wood Destroying Pests and Organisms Inspection Report Form.

Mr. Katz commented that he prefers the old report form.

Mr. Gordon stated that he agrees and stated that the old report form was easier for the consumer to read and understand because it was more specific to the exact location of the infestation.

Mr. Katz suggested that the Committee ask staff to provide a sample of the old report form for the Committee to review.

Mr. Ennes moved to table the discussion of the Wood Destroying Pests and Organisms Inspection Report Form for a future meeting when both versions of the form are available.

Mr. Heppler asked if the old form was more comprehensive in structure.

Mr. Gordon explained the structure of the old form.

Mr. Katz seconded the motion. Passed unanimously.

The committee reviewed CCR Section 1996.1(a).

Mr. Ennes asked if it was necessary to make the location of where the inspection tag is so specific.

Mr. Katz stated that some structures do not have a subarea, attic, or garage.

Mr. Gordon suggested that the location of the tags should be more specific because some companies will post their tag in an inconspicuous location in the subarea, attic, or garage, making it difficult to locate, especially for the consumer. He also expressed concern with the posting requirements on a limited inspection as well as not being able to post a completion tag next to the inspection tag if the location of the inspection tag is not accessible.

Mr. Whitmore suggested adding a provision that allows the tag to be posted in an alternative location should the specified locations in CCR Section 1996.1 be unavailable or nonexistent. He added that the location of the tag is required to be captured in the report. He expressed concern with having to post the tag in every attic or garage when treating a multi-unit structure.

Mr. Heppler suggested adding language to the effect of "if the structure does not have an attic, sub-area, or garage, the tag should be posted in an area that is readily accessible."

After much discussion, Mr. Katz moved and Mr. Ennes seconded to recommend to the Board to amend CCR Section 1996.1(a) as follows. Passed unanimously.

§1996.1. Inspection and Completion Tags.

- (a) An inspection tag shall be posted ~~in the attic or sub-area, or in the garage~~ whenever an inspection for wood-destroying pests or organisms is made. The tag shall be posted in the attic, sub-area, or in the garage unless these areas do not exist then the tag must be posted in an area that is readily accessible. The inspection tag shall be not less than 3" by 5" and shall contain the firm's name, date of inspection and the following statement: "Do not remove—Structural Pest Control Board Regulation 1996.1."

The committee reviewed and discussed CCR Section 1996.1(b).

Mr. Katz asked if the committee should consider adding a requirement to include the amount of pesticide used to the completion tag.

Mr. Gordon stated that the homeowner is already provided with that information.

Mr. Hepler questioned why the completion tag does not require the company's license number and asked if such information on this tag would be beneficial to Enforcement Staff.

Ms. Saylor stated that not having the license number on the tag has not been a problem in the past.

The Committee decided not to recommend any changes to the Board regarding CCR Section 1996.1(b).

The committee reviewed CCR Section 1996.1(c).

Mr. Katz commented that the language in this section can be written more clearly.

Mr. Katz moved and Mr. Ennes seconded to recommend to the Board to make the following changes to CCR Section 1996.1(c). Passed unanimously.

1996.1 (c) The inspection report shall indicate the location of the inspection tag. The inspection report must also indicate the presence of any other inspection, completion, or fumigation tag that is less than two years old ~~and any similar completion tag~~. A registered company shall not remove any tag.

The committee reviewed CCR Section 1996.2 and the Standard Notice of Work Completed and Not Completed form.

Mr. Lucas stated that once the committee discusses CCR Sections 1991 through 1993 at October's meeting, that they will have a better sense of what direction they would like to go regarding the Standard Notice of Work Completed and Not Completed form.

Mr. Gordon stated that the Committee will table the discussion of CCR Section 1996.2 and the Standard Notice of Work Completed and Not Completed form until October's meeting.

The Committee reviewed CCR Section 1996.3. The Committee discussed with Board staff the different methods of filing Wood Destroying Organisms (WDO) reports with the Board.

The Committee reviewed CCR Section 1997 and decided that there were no changes to this section that they would like to recommend to the Board.

Mr. Whitmore suggested adding language to CCR Section 1996.3 to allow for the electronic filing of WDO reports.

Kathy Boyle, Department of Pesticide Regulation, suggested that if the committee decides to make recommendations to change CCR Section 1996.3 to allow electronic filings that they should review the B & P Codes that provide the authority for this regulation.

Mr. Whitmore moved and Mr. Ennes seconded to recommend to the Board to add "electronically" to CCR Section 1996.3 as follows.

1996.3 (a) The address of each property inspected and/or upon which work was completed shall be reported electronically or on a form prescribed by the Board and designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section. This shall be prepared by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518.

The Committee discussed B & P Code Sections 8516 and 8518 in relation to CCR Section 1996.3(a).

Mr. Heppler stated that it is unusual and unnecessary to have both the criteria for the form and the form in regulation.

Mr. Whitmore withdrew his motion.

Mr. Katz moved and Mr. Ennes seconded to recommend to the Board to amend CCR Section 1996.3(a) as follows.

1996.3(a) The address of each property inspected and/or upon which work was completed shall be reported ~~on~~ in a format prescribed by the Board and ~~designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section.~~ This information shall be ~~prepared~~ provided by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518.

Mr. Heppler stated that if the committee choses to use the above language that they must leave Form 43M-52 in regulation.

The Committee reviewed CCR Section 1996.3(b).

Mr. Katz moved and Mr. Whitmore seconded to recommend to the Board to amend CCR Section 1996.3(b) as follows. Passed unanimously.

1996.3 (b) The ~~form~~ submission shall contain the following information for each property inspected and/or upon which work was completed.

- (1) Company Name
- (2) Company registration number
- (3) Branch office registration number (when a branch office issues an inspection report or notice of work completed)
- (4) Date of Activity
- (5) Address of property inspected or upon which work was completed, including zip code
- (6) Activity Code
- (7) License number of licensee performing the inspection

Ms. O'Flaherty pointed out that in CCR Section 1996.3(c) the last sentence reads "then" and should read "than."

Mr. Ennes moved and Mr. Whitmore seconded to recommend to the Board to amend CCR Section 1996.3(c) as follows. Passed unanimously.

1996.3 (c) Failure of a registered company to report and file with the Board the address of any property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are grounds for disciplinary action and subject to a fine of not more ~~then~~ than two thousand five hundred dollars (\$2,500).

The Committee reviewed CCR Section 1998 and decided not to recommend any changes to this Section to the Board.

Mr. Whitmore suggested removing the language that increased the filing fee from Form 43M-52.

Mr. Whitmore moved and Mr. Katz seconded to recommend to the Board to make the following amendments to CCR Section 1997. Passed unanimously.

§1997. WDO Inspection and Completion Activity Fee.

Pursuant to the provisions of section 8674 of the Business and Professions Code, the following fee is determined, set and established:

(1) Activity Reporting fee per Property Address ~~\$1.50. Effective July 1, 2010, the Activity Reporting fee per Property Address is \$2.50.~~

The Committee reviewed and discussed CCR Section 1999.5 and decided not to make any recommendations to the Board to change this Section.

Ms. Boyle stated that at the previous meeting, the Committee tabled the discussion of CCR Section 1983 for her presence and asked the Committee if they would like to address this section.

Mr. Whitmore suggested that the Committee review the unfinished business to prepare for the next meeting.

The Committee reviewed CCR Section 1983 and Ms. Boyle's recommendations from Correspondence Item #37. They discussed the differences between "service kits" and "service containers."

Mr. Katz suggested that a service kit should be locked and labeled when it contains pesticides.

Mr. Gordon stated that "service kit" is on the list of definitions that the Committee will address at a future meeting.

Mr. Whitmore stated that the language in CCR Section 1983(c) states that a storage space on a vehicle that contains a pesticide cannot be left either unlocked or unattended. He suggested that the Committee consider recommending language that reads "unlocked while unattended."

Ms. Boyle suggested that the Committee consider including "emptied containers or part thereof or equipment" throughout CCR Section 1983 when discussing pesticides to make licensees aware that these items are still contaminated.

The Committee discussed CCR Section 1970.5 and decided not to make any recommendations to the Board to change this section.

After much discussion, the Committee decided not to recommend any changes to CCR Section 1983(a), (b), or (c).

Mr. Katz moved and Mr. Ennes seconded to recommend to the Board to make the following changes to CCR Section 1983(d).

1983(d) Where there is danger of food or drug contamination, all food or drug commodities and all utensils or equipment used in the preparation of food or drugs shall be adequately covered to ~~insure~~ ensure against contamination by pesticides ~~pesticidal materials~~, unless the contamination will be dissipated or otherwise removed prior to the time the food or drugs are consumed or the utensils or equipment used.

Mr. Ennes moved and Mr. Whitmore seconded to recommend to the Board to make the following changes to CCR Section 1983(e). Passed unanimously.

1983(e) No ~~rodenticide or avicide~~ pesticide shall be used in such manner as to be readily accessible to children or pets.

The committee discussed Ms. Boyle's recommended changes to CCR Section 1983(f).

Mr. Ennes moved and Mr. Whitmore seconded to recommend to the Board to make the following changes to CCR Section 1983(f). Passed unanimously.

1983(f) All rodenticides and avicides shall be removed from readily accessible places upon termination of the particular ~~service~~ pest control operation.

The committee discussed CCR Section 1983(g).

Mr. Gordon stated that the same use requirements set forth in this subsection would also be found on the product label and suggested that this subsection is not necessary.

Mr. Katz moved and Mr. Whitmore seconded to recommend to the Board to repeal CCR Section 1983(g).

Mr. Whitmore stated that the label requirements for tracking powders are more stringent than the requirements set forth in CCR Section 1983(h) and suggested that this subsection is also not necessary.

Mr. Katz moved and Mr. Whitmore seconded to amend the previous motion to also recommend repealing CCR Section 1983(h). Passed unanimously.

~~1983 (g) Under no circumstances shall oil base insecticidal materials be used in or near open flames or active heaters.~~

~~(h) Tracking powders shall be used only at floor level or in such places as warrant their safe use.~~

The committee discussed and decided not to recommend any changes to CCR Section 1983 (i) or (j).

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

ADJOURNMENT

The meeting adjourned at 3:31 P.M.



Bob Gordon, Committee Chairperson



Susan Saylor, Registrar

12/11/13
DATE