

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

The meeting was held November 12, 2015 at the Orange County Agricultural Commissioner,  
Library Room, 222 E Bristol Lane, Orange, California

**Committee Members Present:**

Bob Gordon, Chairman  
Allen Kanady  
Mike Katz  
Mike McKenzie  
Lee Whitmore

**Board Staff Present:**

Robert Lucas, Assistant Executive Officer  
David Skelton, Administrative Analyst

**Departmental Staff Present:**

Frederic Chan-You, Legal Counsel

**ROLL / CALL ESTABLISHMENT OF QUORUM**

Mr. Gordon called the meeting to order at 9:30 A.M. and called roll.

Committee members Gordon, Kanady, Katz, McKenzie, and Whitmore were present.

Committee member Brand was absent.

A quorum of the Committee was established.

**PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

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

**APPROVAL OF MINUTES OF THE OCTOBER 9, 2015 COMMITTEE MEETING**

Mr. Katz moved and Mr. Whitmore seconded to approve the Minutes of the October 9, 2015 Committee Meeting. Passed unanimously. (AYES: GORDON, KANADY, KATZ, MCKENZIE, WHITMORE. NOES: NONE. ABSTENTIONS: NONE.)

**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 proposed changes to CCR Section 1990.

Mr. Kanady stated that the last sentence the Committee previously recommended adding to CCR Section 1990(e) is unnecessary and should be removed.

Mr. Kanady moved and Mr. Whitmore seconded to recommend to the Board the following changes to CCR Section 1990. Passed unanimously. (AYES: GORDON, KANADY, KATZ, MCKENZIE, WHITMORE. NOES: NONE. ABSTENTIONS: NONE.)

**§ 1990. Report Requirements Under Section 8516(b) 1-9, Inclusive.**

(a) All reports shall be completed as prescribed by the board. Copies ~~filed with~~ provided to the board shall be clear and legible. All reports must supply the information required by Section 8516 of the Code and the information regarding the pesticide or pesticides used as set forth in Section 8538 of the Code, and shall contain or describe the following:

(1) Structural pest control license number of the ~~person~~ Branch 3 licensee(s) making who performed the inspection.

(2) Signature of the Branch 3 licensee(s) who ~~made~~ performed the inspection.

(3) Infestations, infections or evidence thereof.

(4) Wood members found to be damaged by wood destroying pests or organisms.

(b) Conditions usually deemed likely to lead to infestation or infection include, but are not limited to:

(1) Faulty Grade Level. A faulty grade level exists when the top of any foundation is even with or below the adjacent earth surface. The existing earth surface level shall be considered grade.

(2) Inaccessible subareas or portions thereof and areas where there is less than 12 inches clear space between the bottom of the floor joists and the unimproved ground area.

(3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size that can be raked or larger. Stumps and wood imbedded in footings in earth contact shall be reported.

(4) Earth-wood contacts.

(5) Commonly controllable moisture conditions which would foster the growth of a fungus infection materially damaging to woodwork.

(c) When an infestation of carpenter ants or carpenter bees is found in a structure, control measures may be applied by a registered ~~companies holding a~~ Branch 2 or Branch 3 company registration certificate. If a Branch 3 licensee discovers an infestation or evidence of carpenter ant or carpenter bee infestation while performing an inspection pursuant to section 8516 of the code, he or she shall report his or her findings and make recommendations for controlling the infestation.

(d) Even though the licensee may consider the following areas inaccessible for purposes of inspection, the licensee must state specifically which of these areas or any other areas were not inspected and why the inspection of these areas is not practical: furnished interiors; inaccessible attics or portions thereof; the interior of hollow walls; spaces between a floor or porch deck and the ceiling or soffit below; stall showers over finished ceilings; such structural segments as porte cocheres, enclosed bay windows, buttresses, and similar areas to which there is no access without defacing or tearing out lumber, masonry or finished work; built-in cabinet work; floors beneath coverings, areas where storage conditions or locks make inspection impracticable.

(e) Information regarding all accessible areas of the structure including but not limited to the substructure, foundation walls and footings, porches, decks, patios and steps, stairways, air vents, abutments, stucco walls, columns, attached structures or other parts of a structure normally subject to attack by wood-destroying pests or organisms.

(f) The following language shall appear just prior to the first finding/recommendation on each separated report:

"This is a separated report which is defined as Section I/Section II conditions evident on the date of the inspection. Section I contains items where there is visible evidence of active infestation, infection or conditions that have resulted in or from infestation or infection. Section II items are conditions deemed likely to lead to infestation or infection but where no visible evidence of such was found. Further inspection items are defined as recommendations to inspect area(s) which during the original inspection did not allow the inspector access to complete the inspection and cannot be defined as Section I or Section II."

~~(g) Information must be reported regarding any wooden deck, wooden stairs or wooden landing in exterior exposure attached to or touching the structure being inspected. Portions of such structure that are not available for visual inspection must be designated as inaccessible.~~

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

The Committee discussed what the appropriate circumstances are for enforcement action to be taken on a company and/or employee when an employee fails to utilize the proper personal protective equipment.

Mr. Whitmore moved and Mr. McKenzie seconded to recommend to the Board the following changes to B&P Code Section 8616.9. Passed unanimously. (AYES: GORDON, KANADY, KATZ, MCKENZIE, WHITMORE. NOES: NONE. ABSTENTIONS: NONE.)

**8616.9.** If an employee is found during an inspection or investigation not wearing personal protective equipment required by label or regulation, the commissioner shall have the option to use discretion in citing an employer only if evidence of all of the following is provided: discretion to issue a compliance and/or enforcement action to the employee, employer, or both. In order for the commissioner to issue a compliance and/or

enforcement action to the employee only, the employer must provide evidence of all of the following:

- (a) The employer has a written training program, has provided training to the employee, and has maintained a record of training as required by label or regulation.
- (b) The employer provided personal protective equipment required by label or 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) The employer is in compliance with regulations relating to the workplace and supervision of employees.
- (d) The employer has documented implementation and adheres to a written company policy of disciplinary action for employees who violate company policy or state or local laws or regulations.
- (e) The employer has not been issued a compliance or enforcement action for violations relating to personal protective equipment for the previous two (2) years history of repeated violations of this section.

Mr. Gordon opened up discussion on B&P Code Section 8539.

The Committee tabled discussion of B&P Code Section 8539 until a future meeting where input from the Los Angeles County Agricultural Commissioner could be heard.

The Committee scheduled future meetings for January 15, 2016 in San Diego and February 10, 2016 in Sacramento.

#### **ADJOURNMENT**

Mr. Mckenzie moved and Mr. Kanady seconded to adjourn the meeting. Passed unanimously. (AYES: GORDON, KANADY, KATZ, MCKENZIE, WHITMORE. NOES: NONE. ABSTENTIONS: NONE.)

The meeting was adjourned at 12:52 P.M.

  
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Bob Gordon, Chairman

1-15-2016  
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Date