



STRUCTURAL PEST CONTROL BOARD TECHNICAL ADVISORY COMMITTEE MEETING

MEETING NOTICE

Wednesday, December 4, 2024, 10:00 a.m.

This teleconference meeting will be held in accordance with Government Code section 11123.5. Board staff will be present at the physical meeting location below, and all Committee members will be participating virtually from remote locations.

Members of the public may participate from a remote location by joining the meeting via WebEx: <https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m1cbe1356f3bd38e4e202561f4649dc7a>

If joining using the link above:

Webinar number: 2492 871 6285

Webinar password: SPCB124

If joining by phone:

+1-415-655-0001 US Toll

Access code: 2492 871 6285

Passcode: 7722124

Physical Meeting Location

SPCB Conference Room

2005 Evergreen Street, Suite 1500

Sacramento, CA 95815

Members of the public may, but are not required to, identify themselves. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will need to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment. Participants who choose not to provide their email address may use a fictitious email address in the following sample format: XXXXXX@mailinator.com.

AGENDA

1. Roll Call/ Introductions
2. Discussion Regarding Termite Bait Stations/Termite Monitoring Devices and Subterranean Termite Treatments (California Code of Regulations, Title 16, sections 1991, 1993.2, and 1993.4)
3. Public Comment for Items Not on the Agenda
The Panel may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]
4. Adjournment

This agenda can be found on the Structural Pest Control Board's Website at: www.pestboard.ca.gov



MEMORANDUM

DATE	October 10, 2023
TO	Members of the Structural Pest Control Board
FROM	Tom Ineichen, SPCB Specialist Structural Pest Control Board
SUBJECT	Agenda Item #17: Discussion and Possible Action Regarding Termite Bait Stations/Termite Monitoring Devices

Background

The Structural Pest Control Board (SPCB) has received several inquiries from the pest control industry (industry) and pesticide manufacturers/dealers (dealers) on how the current SPCB laws and regulations affect termite monitoring and bait stations and the ability to recommend both as a preventative measure. The inquiries sought specific information on how the current laws and regulations affect the use of monitoring stations and “Continuous Bait Use,” due to new developments in these products, and the need for clarification. There appears to be an increased interest in using monitors and continuous bait for control and preventative measures for subterranean and Formosan Termites, as they are labeled for such use. Research information also indicates “California has been slow to implement termite baiting.”

Current laws and regulations that affect these issues:

California Code of Regulations Title 16, Sections:

1991. Report Requirements Under Section 8516(b)10. (a) Recommendations for corrective measures for the conditions found shall be made as required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also conform with the provisions of Title 24 of the California Code of Regulations and any other applicable local building code, and shall accomplish the following:... **(9)** For the extermination of subterranean termite infestations, treat an infested area under the structure when subterranean termite tubes are found connected to the ground or when active infestations are found in the ground. Subterranean termite tubes shall be removed where accessible, except where a licensee is using an above ground termite bait station that requires the use of the termite tubes to be effective. Where a licensee is using an above ground termite bait station that requires the use of termite tubes to be effective, subterranean termite tubes can remain in place for the duration of the licensee's use of

the termite bait stations. At the conclusion of the treatment, the subterranean termite tubes shall be removed.

1993.2. Termite Bait Station.

- (a) For the purposes of this section, "termite bait station" shall include:
- (1) an "above-ground bait station," which shall mean any device containing pesticide bait used for the eradication of termites that is attached to the structure, or
 - (2) an "in-ground bait station," which shall mean any device containing pesticide bait used for the eradication of termites that is placed in the ground.
- (b) Prior to the installation of a termite bait station, a full or limited inspection of the structure shall be made.
- (c) Use of a termite bait station shall be considered a control service agreement as defined by section 8516 of the code.

1993.4. Termite Monitoring Device.

- (a) A "termite monitoring device" is defined as a device that:
- (1) Solely provides an indication of the possible presence or absence of termites.
 - (2) Does not provide for positive identification of an infestation.
 - (3) Does not eliminate the need for an inspection conducted by a Branch 3 Operator or Field Representative prior to any treatment or work being performed.
 - (4) Does not contain any pesticides.
 - (5) Does not provide any control measures.
- (b) Installation of any termite monitoring device must be performed by a registered Branch 3 company.
- (c) Prior to installation of any termite monitoring device(s), the following disclosure language shall be provided in writing to the property owner or the property owner's designated agent:
- "Termite monitoring devices are intended to solely provide an indication of the possible presence or absence of termites in the areas where such devices are installed. Termite monitoring devices do not replace the requirement for a termite inspection to be performed by a licensed termite inspector prior to the commencement of any treatment or work being performed. If the termite monitoring device indicates the possible presence of termites, you should consider having an inspection performed. You have the right to choose any registered company licensed to perform these services."

Analysis

The current SPCB laws and regulations relating to the recommendations and use of termite monitoring and bait stations as a method of control or prevention have not kept pace with industry practices and technologies and do not align with current monitoring and bait station labels and the consumer's need and protection. The following are potential conflicts or concerns for proper enforcement:

1. Proper recommendations:

- Current regulations (1991(a)(9)) only allow to “treat an infested area under the structure” when termite infestations are found connected to the ground, other than “where a licensee is using an above ground termite bait station that requires the use of the termite tubes to be effective.”
- The use of an above ground station only addresses the removal of the tubes to use the bait station, and then remove the tubes at the conclusion of the treatment. No indication of what a “treatment” means to control an infestation.
- Termite bait stations are mostly being used around the exterior of the structure two or more feet from the perimeter of the structure and does not guarantee control in the structure or address the ability to certify the property.
- No regulations address the methods or use of baits or monitors as a preventative treatment and what is required.

2. Monitoring Devices:

- Can monitoring stations be installed without first performing an inspection of the structure and issuing a report, and how much should be inspected.
- Who can inspect (licensee or not) and what is required to report to the consumer.
- Does a recommendation need to be made and a report issued with a contract. What if the structure has infestation?
- Does the installation of a monitoring system constitute work performed and when is it completed (initially or after monitors are removed). If it is work, is a notice of work completion required. How does one communicate or ensure the work done and absence or presence of infestation and when to issue a report.

3. Bait Stations:

- Can bait stations be used preventatively, and what should be recommended? What is required in the report/contract and what about possible infestation in the structure?
- If performing a limited inspection of the structure before recommending or installing a baiting system, how can a Control Service Agreement (CSA) address all true conditions of the structure. What about damage and failing to control existing infestations.
- When is a baiting system installation considered “work completed,” and what can the consumer rely on as the timing for their length of guarantee or control.
- When installing a baiting system to control an existing infestation in the structure, is a local treatment also needed for the structure infestation? When can the property be certified and what is required to ensure “extermination.”

Recommendation

The EO recommends a Technical Advisory Committee be established to research the issue, solicit stakeholder input (questions, comments, concerns), and deliver a recommendation to the Board at a future meeting on how to best resolve.

Termite Monitor vs. Termite Bait Station

What is a bait station?

1993.2. Termite Bait Station.

(a) For the purposes of this section, "termite bait station" shall include:

- (1) an "above-ground bait station," which shall mean any device containing pesticide bait used for the eradication of termites that is attached to the structure, or
- (2) an "in-ground bait station," which shall mean any device containing pesticide bait used for the eradication of termites that is placed in the ground.

(b) Prior to the installation of a termite bait station, a full or limited inspection of the structure shall be made. *With required CSA contract and report and pesticide disclosure before any work performed.*

(c) Use of a termite bait station shall be considered a control service agreement as defined by section 8516 of the code.

What is a Termite Monitor?

1993.4. Termite Monitoring Device.

(a) A "termite monitoring device" is defined as a device that:

(1) Solely provides an indication of the possible presence or absence of termites. *vague, until inspected?*

What about need for a licensee to inspect and make recommendations?

(2) Does not provide for positive identification of an infestation. *vague, until inspected?*

(3) Does not eliminate the need for an inspection conducted by a Branch 3 Operator or Field Representative prior to any treatment or work being performed. *Inspection of what structure or monitor? If no infestation in the structure recommendation could only be preventative.*

(4) Does not contain any pesticides.

(5) Does not provide any control measures. *Requires agreement spelling it out, until infested?*

(b) Installation of any termite monitoring device must be performed by a registered Branch 3 company. *Not defined if inspector needs to be OPR or FR, but all other laws indicate must be a OPR or FR.*

(c) Prior to installation of any termite monitoring device(s), the following disclosure language shall be provided in writing to the property owner or the property owner's designated agent:

"Termite monitoring devices are intended to solely provide an indication of the possible presence or absence of termites in the areas where such devices are installed. Termite monitoring devices do not replace the requirement for a termite inspection to be performed by a licensed termite inspector prior to the commencement of any treatment or work being performed. If the termite monitoring device indicates the possible presence of termites, you should consider having an inspection performed. You have the right to choose any registered company licensed to perform these services."

Does it constitute an inspection performed or work completed, does a report and NOC need to be issued? An agreement with clear indications of not being a control measure, expectations and the required language is required. It also triggers other issues related to inspections performed, issuing information about absence or presence and opinions, which require the normal WDO report and other requirements. What about the process? If only one or two stations have a hit would all stations then be changed to a CSA, or would some continue to be treated as a Monitor and what would be issued in the way of reports?

Other Issues to Consider, Triggers and Legal Requirements

ARTICLE 1. General Provisions

8504.4. "Inspection" is the act of a field representative or operator physically performing an onsite assessment of real property. *Inspection for WOD absence or presence requires OPR or FR, a report and definition indicates "property." What will be issued to the consumer?*

8505. (a) "Structural pest control" and "pest control" as used in this chapter are synonymous. Except as provided in Section 8555 and elsewhere in this chapter, it is, with respect to household pests and wood destroying pests or organisms, or other pests that may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, any of the following:

- (1) Identification of infestations or infections.
- (2) The making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by those pests or organisms.
- (3) The making of inspection reports, recommendations, estimates, and bids, whether oral or written, with respect to those infestations or infections.
- (4) The making of contracts, or the submitting of bids for, or the performance of any work including the making of structural repairs or replacements, or the use of pesticides, or mechanical devices for the purpose of eliminating, exterminating, controlling or preventing infestations or infections of those pests, or organisms.

8506.1. (a) A "registered company" is any sole proprietorship, partnership, corporation, or other organization or any combination thereof that is registered with the Structural Pest Control Board to engage in the practice of structural pest control.

(b) A registered company may secure structural pest control work, submit bids, or otherwise contract for pest control work. A registered company may employ licensed field representatives and licensed operators to identify infestations or infections, make inspections, and represent the company in the securing of pest control work. A registered company may hire or employ individuals who are not licensed under this chapter to perform work on contracts covering Branch 1, 2, or 3, or any combination of branches, only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job. *After an inspection and report. It does not allow unlicensed work.*

(c) This section shall not be construed to authorize an unlicensed individual to perform work that requires a license pursuant to this chapter.

8506. *Defines "Structural pest control operator" ... Can identify, inspect and contract as a company.*

8507. *Defines "Structural pest control field representative" ... Can identify, inspect and contract for PR.*

8507.1. *Defines "Structural pest control applicator" ... Can apply pesticides on behalf of the PR, as directed by OPR or FR, but cannot inspect or identify or contract.*

8514. (a) A Branch 2 or 3 registered company shall not commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until the registered company has completed an inspection....

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms.

(b) A registered company or licensee shall not commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator employed by a registered company, except as provided in Section 8519.5. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work....

A written inspection report conforming to this section and a form approved by the board shall be prepared and delivered to the person requesting the inspection and the property owner, or to the property owner's designated agent... The report shall be delivered before work is commenced on any property. Shall include:

(1) The start date of the inspection and the name of the licensed field representative or operator making the inspection. (2)... (3) The name and address of the property owner and any person who is a party in interest. (4) The address or location of the property. (5) A general description of the building or premises inspected. (6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, including the approximate location of any infested or infested areas evident, and the parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(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.

(g) For purposes of this section, "control service agreement" means an agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. *Also must identify the structure(s) or buildings or portions thereof covered by the agreement.*

8517. Any work contract, billing, agreement, letter of work completed, or other correspondence or document expressing an opinion or making a statement relating to the presence or absence of wood destroying pests or organisms, shall refer to the inspection report required by Section 8516. These documents shall indicate specifically whether all of the recommended work as set forth in the inspection report was completed, or, if not, the document shall indicate specifically which recommendations were not completed.

8518. (a) When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 business days after completing the work... *This applies to any work completed, when a CSA or portions of it are completed and extend long periods of time without any work, the NOC must be issued within 10 days of the work completed.*

8519. Certification – *Consider that a CSA or baiting program may not allow for a certification or can affect typical Real Estate transactions.*

8550. (a) It is unlawful for any person to advertise, to engage in, or offer to engage in the business or practice of structural pest control, as defined in Section 8505, unless he or she is licensed under this chapter.

(b) Notwithstanding subdivision (a), an unlicensed person may solicit pest control work on behalf of a structural pest control company only if the company is registered pursuant to this chapter, and the unlicensed individual does not perform or offer to perform any act for which an operator, field representative, or applicator license is required pursuant to this chapter. As used in this subdivision, to "solicit pest control work" means to introduce consumers to a registered company and the services it provides, to distribute advertising literature, and to set appointments on behalf of a licensed operator or field representative.

(c) It is unlawful for an unlicensed person, soliciting pest control work on behalf of a registered structural pest control company pursuant to subdivision (b), to perform or offer to perform any act for which an operator, field representative, or applicator license is required, including, but not limited to, performing or offering pest control evaluations or inspections, pest identification, making any claims of pest control safety or pest control efficacy, or to offer price quotes other than what is provided and printed on the company advertising or literature, or both.

(d) It is also unlawful for any unlicensed person to offer any opinion, or to make any recommendations, concerning the need for structural pest control work in general, or in connection with a particular structure. *The laws are very restrictive to what anyone not licensed as an OPR or FR can do.*

8641. Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a report (*an official required format report or not*) of inspection without the making of a bona fide inspection of the premises for wood destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action..

1990. Report Requirements Under Section 8516(b) 1-9, Inclusive. (a) All reports shall be completed as prescribed by the board... All reports.... and shall contain or describe the following: (1) Structural pest control license number of the person making the inspection. (2) Signature of the Branch 3 licensee who made the inspection. (3) Infestations, infections or evidence thereof...

1991. Report Requirements Under Section 8516(b)10... shall accomplish the following: (a)(9) For extermination of subterranean termite infestations, treat an infested area under the structure when subterranean termite tubes are found connected to the ground or when active infestations are found in the ground. Subterranean termite tubes shall be removed where accessible, except where a licensee is

using an above ground termite bait station that requires the use of the termite tubes to be effective. Where a licensee is using an above ground termite bait station that requires the use of termite tubes to be effective, subterranean termite tubes can remain in place for the duration of the licensee's use of the termite bait stations. At the conclusion of the treatment, the subterranean termite tubes shall be removed.

1996. (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.