STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
STRUCTURAL PEST CONTROL BOARD-ADMINISTRATION UNIT
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BOARD MEETING

NOTICE and AGENDA

Thursday, October 16, 2014
9:00 A.M
Friday, October 17, 2014
9:00 A.M.

Department of Consumer Affairs
Hearing Room
2005 Evergreen Street
Sacramento, CA 95815

Contact Person: Susan Saylor
(916) 561-8700

AGENDA

The public may provide comment on any issue before the Board at the time the agenda item is discussed.

Thursday – 9:00 A.M.

I. Roll Call / Establishment of Quorum

II. Flag Salute / Pledge of Allegiance

III. Public Comment on Items Not on the Agenda
The Board 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)]

IV. Approval of the Minutes from the July 9 & 10, 2014 Board Meeting

V. Executive Officer's Report
Licensing and Enforcement Survey Results and Statistics, Staffing Changes, WDO Statistics, Computer Based Testing (CBT) Update, Examination Compromise Criminal Case Update

VI. Update on: SB 1244 Sunset Bill
SB1685 Exam Fees
SB 1405 Pesticides – School sites

VII. Act Review Committee Update and Proposed Legislative Changes to Business and Professions Code sections

VIII. Discussion and Consideration of Possible Amendments to Business & Professions Code sections 8506.2, 8610 and 8611 in conjunction with California Code of Regulation section 1918 regarding Supervision of Registered Companies and Employees

IX. Review of Research Fund Process and Possible Establishment of the Research Advisory Panel

X. Annual Review and Possible Amendment of Board Policies and Procedures

XI. Update on Bond and Insurance Increase

Thursday – 1:00 P.M.

XII. Petition for Reinstatement
Dawn Marie Charrette – OPR 9119 Branches 1 & 3

XIII. Petition for Modification of Probation
D & S Termite Control – PR 1164 Branches 1, 2, & 3

XIV. Petition for Reinstatement
Jason Bohannon – RA 48306 Branch 3, & FR 45160 Branch 2

XV. Petition for Reinstatement
Sean D. Neufeld – RA 50644 Branches 2 & 3

XVI. Closed Session- Pursuant to subdivision (c) (3) of Section 11126 of the Government Code, the Board will meet in closed session to consider proposed disciplinary actions, stipulated settlements, and petitions for modification / termination of probation and reinstatement.

XVII. Closed Session – The Board may convene in Closed Session pursuant to Government Code Section 11126(a)(1) to discuss Evaluation of the Executive Officer

Return to Open Session

XVIII. Adjournment

Friday – 9:00 A.M. Resume Open Session

XIX. Continuation of Petitions for Modification of Probation and Petitions for Reinstatement from Thursday's meeting if necessary

XX. Review and Possible Amendments to Disciplinary Guidelines

XXI. Update Regarding Strategic Planning

XXII. Annual Election of Board Member President and Vice President

XXIII. Presentation from Department of Consumer Affairs – Office of Professional Examination Services (OPES) Regarding Reference Material, Study Guides, CBT Regarding Strong and/or Weak Areas of the Examinations, and Other Examination Services.

XXIV. Presentation from University of California Statewide Integrated Pest Management (IPM) Group and Potential Board Action on Developing a Structural IPM Study Guide for Licensees

XXV. Presentation from Department of Pesticide Regulation (DPR) on Sulfuryl Fluoride and Mitigation Development for Structural Uses

XXVI. Presentation from DPR Product Compliance Branch on Product Compliance and Online Sales of Pesticides

XXVII. Pre-treatment Committee Update

XXVIII. Board Meeting Calendar

XXIX. Future Agenda Items

XXX. Closed Session – Pursuant to subdivision (c) (3) of Section 11126 of the Government Code, the Board will meet in closed session to consider proposed disciplinary actions, stipulated settlements, and petitions for modification / termination of probation and reinstatement.

Return to Open Session

XXXI. Adjournment

The meeting may be cancelled or changed without notice. For verification, please check the Board's website at www.pestboard.ca.gov or call 916-561-8700. Action may be taken on any item on the agenda. Any item may be taken out of order to accommodate speakers and/or to maintain a quorum. Meetings of the Structural Pest Control Board are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The public may take appropriate opportunities to comment on any issue before the Board at the time the item is heard, but the President may, at his discretion, apportion available time among those who wish to speak. If you are presenting information to the Board, please provide 13 copies of your testimony for the Board Members and staff. Copying equipment is not available at the meeting location.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Structural Pest Control Board at (916) 561-8700 or email pestboard@dca.ca.gov or send a written request to the Structural Pest Control Board, 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

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

MINUTES OF THE MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
July 9 & 10, 2014

The meeting was held on July 9 & 10, 2014 at The San Diego Foundation, Hoffman Community Room, San Diego, California commencing at 1:00 P.M. on July 9, 2014.

Board Members Present:

Dave Tamayo, Board President
Curtis Good, Vice President
Ronna Brand
Naresh Duggal
Mike Duran
Marisa Quiroz
Cliff Utley

Board Staff Present:

Susan Saylor, Executive Officer
Robert Lucas, Assistant Executive Officer
David Skelton, Administrative Analyst
Ron Moss, SPCB Specialist

Departmental Staff Present:

Kyle Muteff, Legal Counsel

ROLL CALL / ESTABLISHMENT OF QUORUM

Ms. Saylor read roll call at 1:01 P.M. Quorum established.

FLAG SALUTE / PLEDGE OF ALLEGIANCE

Mr. Tamayo led everyone in the flag salute and recitation of the Pledge of Allegiance.

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

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

PETITION FOR REINSTATEMENT

Administrative Law Judge Vallera J. Johnson sat with the Board to hear the Petition for Reinstatement for Joshua King, Field Representative License Number 30569. The petitioner was informed that he would notified by mail of the Board's decision.

PETITION FOR MODIFICATION OF PROBATION

Administrative Law Judge Vallera J. Johnson sat with the Board to hear the Petition for Modification of Probation for D & S Termite Control, Principle Registration Number 1164. The matter was continued until the January 14 & 15, 2015 Board Meeting to be held in San Diego.

PETITION FOR REINSTATEMENT

Administrative Law Judge Vallera J. Johnson sat with the Board to hear the Petition for Reinstatement for Jason Bohannon, Applicator License Number 48306, Field Representative License Number 45160. Mr. Bohannon informed the Board that he was unable to attend and requested his Petition for Reinstatement be heard at the October 15 & 16, 2014 Board Meeting.

CLOSED SESSION

Pursuant to subdivision (c) (3) of Section 11126 of the Government Code the Board met in closed session to consider proposed disciplinary actions, stipulated settlements, and petitions for modification / termination of probation and reinstatements.

The open meeting resumed at 6:35 P.M.

ADJOURNMENT

The meeting adjourned for the day at 6:36 P.M

The meeting resumed at 9:00 A.M July 10, 2014.

PUBLIC HEARING: PROPOSED REGULATORY CHANGE TO AMEND TITLE 16, SECTION 1948, CALIFORNIA CODE OF REGULATIONS, TO INCREASE LICENSURE AND CHALLENGE EXAMINATION FEES.

Mr. Muteff outlined the nature of the public hearing for the proposed regulatory change to California Code of Regulations Section 1948 to increase licensure and challenge examination fees and opened up the floor to comments from the public.

Darrell Ennes, Terminix voiced his support for the proposed regulatory change.

Mr. Good voiced his support for the proposed regulatory change citing the increased convenience and reduced cost to businesses which are afforded by Computer Based Testing.

Martyn Hopper, PCOC stated his support for the proposed regulatory change and provided the Board with an update on the status of Assembly Bill 1685 which will provide the legislative authority to enact the proposed regulatory change.

Mr. Muteff listed the for the record the exact changes that will result from the proposed regulatory action as follows- Operator's Examination will increase from $25 to $65. Field Representative's Examination will increase from $10 to $50. Applicator's Examination will increase from $15 to $55. Operator's Continuing Education Examination will increase from $25 to $65. Field Representative's Continuing Education Examination will increase from $10 to $40.

> Mr. Utley moved and Mr. Good seconded to adopt the proposed regulatory change to amend Title 16, Section 1948 California Code of Regulations to increase licensure and challenge examination fees. Passed unanimously.

DEPARTMENT OF PESTICIDE REGULATION'S (DPR) PRODUCT COMPLIANCE BRANCH PRESENTATION ON PRODUCT COMPLIANCE AND ONLINE SALES OF PESTICIDES

DPR's product compliance presentation was rescheduled for the October 15 & 16, 2014 Board Meeting.

APPROVAL OF THE MINUTES FROM THE MARCH 27 AND APRIL 22, 2014 BOARD MEETINGS

Mr. Utley moved and Mr. Duran seconded to approve the minutes from the March 27 and April 22, 2014 Board Meetings. Passed unanimously. (AYES: Tamayo, Good, Brand, Duggal, Duran, Utley. ABSTENTIONS: Quiroz.)

EXECUTIVE OFFICER'S REPORT

Ms. Saylor updated the Board on licensing and enforcement survey results and statistics, staffing changes, WDO statistics, the research fund balance, computer based testing, examination compromise criminal case update, the DPR and Board co-authored enforcement letter, and DPR's second generation anticoagulant rodenticides notice to industry.

Mr. Utley asked if WDO filings had returned to a level that would allow the Board to consider lowering the filing fee. Ms. Saylor stated that lowering the WDO filing fee would be something to consider after the examination fee increase goes into effect because the Board is currently absorbing the increased cost associated with Computer Based Testing.

The Board discussed the implementation of Computer Based Testing, how new licensure examinations have affected passing rates and what steps the Board could take to help licensure candidates be better prepared to take their examinations.

The Board asked staff to report back at the October 15 & 16, 2014 Board Meeting on the reference material used to create licensure examination study guides, how the study guides are created, and how analytics generated from Computer Based Testing could be used to provide better feedback to those who take licensure examinations.

UPDATE ON SB 1244 SUNSET BILL

Ms. Saylor updated the Board on the status of SB 1244 and the possible inclusion of two additional updates into it concerning the electronic submission of pesticide use stamps as well as vertebrate pests.

The Board thanked staff for all its hard work on updating the Structural Pest Control Act and asked when a new hard copy of it would be produced.

Ms. Saylor stated that after SB 1244 is chaptered, an updated Structural Pest Control Act book will be produced in 2015. Ms. Saylor further stated that the Board's website always has a current copy of the Structural Pest Control Act available to visitors.

UPDATE ON AB 1685 EXAM FEES

Ms. Saylor updated the Board on the status of AB 1685, specifically mentioning her testimony at multiple hearings about the benefits of Computer Based Testing and the votes in support of AB 1685 that have occurred in the Legislature thus far.

The Board thanked the industry and PCOC for their support on this issue.

CONSIDERATION AND POSSIBLE POSITION ON SB 1405 PESTICIDES – SCHOOLSITES

The Board considered the matter of possibly taking a position on SB 1405.

The Board discussed the effects SB 1405 would have on the industry if became chaptered, focusing on the additional training requirements it would impose on Board licensees, the level of pesticide application experience and training it would require of school custodians, and the amendments the Board would like to see in order to support it.

> Mr. Good moved and Ms. Brand seconded to support SB 1405 provided it is amended in a manner that allows only Board licensees to apply non-exempt pesticides and that no training requirements resulting from SB 1405 would apply to Board licensees. Passed unanimously.

CONSIDERATION AND POSSIBLE POSITION ON SB 1167 VECTOR CONTROL

The Board was informed that SB 1167 was signed by the Governor and chaptered on July 7, 2014 and therefore the Board would not need to take a position.

UPDATE ON PROGRESS OF PRE-TREATMENT COMMITTEE

Mr. Tamayo stated that Eric Paulsen, Clark Pest Control had been appointed as the Chair of the pre-treatment committee and that, Mr. Duran, Dr. Vernard Lewis, UC Berkeley, and Mr. Moss had also been appointed as members.

Mr. Tamayo stated that Mr. Moss would be contacting the appropriate CAC and DPR representatives for possible inclusion in the committee and that the goal was to meet for the first time before the October 15 & 16, 2014 Board Meeting.

BOARD MEETING CALENDAR

The next three meetings were previously scheduled for October 15 & 16 & 17, 2014 in Sacramento, January 14 & 15, 2015 in San Diego, and March 25 & 26, 2015 in Sacramento.

The following meeting was scheduled for July 22 & 23, 2015 in San Diego.

FUTURE AGENDA ITEMS

Mr. Duggal requested future agenda items for how the research fund will be used and also for staff to report back about the reference material and study guides the Board provides to those who take licensure examinations.

Mr. Good requested a future agenda item concerning the new insurance and bond requirements and possible disciplinary action.

CLOSED SESSION

Pursuant to subdivision (c) (3) of Section 11126 of the Government Code the Board met in closed session to consider proposed disciplinary actions, stipulated settlements, and petitions for modification / termination of probation and reinstatements.

The open meeting resumed at 2:12 P.M.

ADJOURNMENT

The meeting adjourned at 2:14 P.M.

_____ _____

Board President Date

8674.

The fees prescribed by this chapter are the following:

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than twenty-five dollars ($25).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120).

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative's examination fee of not more than fifteen dollars ($15).

(i) A field representative's license fee of not more than forty-five dollars ($45).

(j) A field representative's license renewal fee of not more than forty-five dollars ($45).

(k) An applicator's examination fee of not more than fifteen dollars ($15).

(l) An applicator's license fee of not more than fifty dollars ($50).

(m) An applicator's license renewal fee of not more than fifty dollars ($50).

(n) An activity form fee, per property address, of not more than three dollars ($3).

(o) A fee for certifying a copy of an activity form of not more than three dollars ($3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(r) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars ($2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.
(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.
(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.
(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.
(4) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.
(5) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

§ 1919. Research Advisory Panel.
The research advisory panel shall consist of one member from the Structural Pest Control Board, two representatives from the structural pest control industry, one representative from the Department of Pesticide Regulation and one representative from the University of California.

Department of Pesticide Regulation

Mary-Ann Warmerdam
Director

Structural Pest Control Board
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Arnold Schwarzenegger
Governor

MEMBERS OF THE RESEARCH ADVISORY PANEL

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10/11/10

STRUCTURAL PEST CONTROL BOARD STATISTICS FOR JUNE 2014 Page 1 of 2	FISCAL YEAR 2013/2014		FISCAL YEAR 2012/2013	
EXAMINATION	**Monthly**	**Year To Date**	**Monthly**	**Year To Date**
Field Representatives Scheduled	351	5,634	450	4,417
Field Representatives Examined	259	3,950	363	3,548
Field Representatives Passed	15	965	64	1,030
Field Representatives Failed	244	2,985	299	2,518
Operators Scheduled	53	629	58	664
Operators Examined	35	498	51	560
Operators Passed	18	210	21	227
Operators Failed	17	288	30	333
Applicators Examined	190	2,741	296	2,598
Applicators Passed	88	1,399	146	1,261
Applicators Failed	102	1,342	150	1,337
Field Representatives Passing Rate	6%	24%	18%	29%
Operator Passing Rate	51%	42%	41%	41%
Applicators Passing Rate	46%	51%	49%	49%
LICENSING				
Field Representative Licenses Issued	73	793	66	916
Operator Licenses Issued	16	197	13	172
Company Registrations Issued	19	263	27	257
Branch Office Registrations Issued	5	52	1	58
Change of Registered Company Officers	0	28	2	31
Change Of Qualifying Manager	11	133	13	108
Applicator Licenses Issued	123	1,355	147	1,108
Duplicate Licenses Issued	57	921	40	902
Upgrade Present License	13	171	14	295
Change of Status Processed	26	338	25	319
Address Change	105	1,626	137	2,136
Address Change (Principal Office)	19	265	23	321
Address Change (Branch Office)	0	16	0	24
Transfer of Employment Processed	196	1,559	144	2,178
Change of Name	0	17	0	17
Change of Registered Company Name	1	14	2	14
License Histories Prepared	24	203	36	238
Down Grade Present License	75	410	27	334
LICENSES/REGISTRATIONS IN EFFECT				
Field Representative		10,919		10,549
Operator		4,080		3,601
Company Registration		2,956		2,713
Branch Office		448		437
Licensed Applicator		6,385		5,051
LICENSES/REGISTRATIONS ON PROBATION				
Companies		22		13
Licensees		91		70

STRUCTURAL PEST CONTROL BOARD STATISTICS FOR JUNE 2014 Page 2 of 2	FISCAL YEAR 2013/2014		FISCAL YEAR 2012/2013	
LICENSES RENEWED			**Monthly**	**Year To Date**
Operator	388	875	796	1,040
Field Representative	1,069	2,030	1,883	2,551
Applicator	77	513	74	563
LICENSES/ REGISTRATIONS CANCELED				
Operator	2	178	0	99
Field Representative	14	1,068	10	1,085
Company Registration	12	146	12	151
Branch Office	2	36	1	58
Applicator	21	848	68	902
LICENSES DENIED				
Licenses	1	22	1	8
INVESTIGATIVE FINES PROCESSED				
Fines Processed	$109	$542	$0	$0
Penalty Assessment	$0	$2,632	$0	$50
Pesticide Fines	$13,685	$106,450	$11,040	$101,787
STAMPS SOLD				
Pesticide	6,080	69,460	5,730	67,285
SEARCHES MADE				
Public	151	1,022	78	932
Complaints	39	551	43	415
BOND & INSURANCE				
Bonds Processed	300	1,186	47	359
Insurance Processed	280	2,790	280	2,831
Restoration Bonds Processed	0	0	0	0
Suspension Orders	15	311	40	430
Cancellations Processed	188	689	32	690
Change of Bond/Insurance	350	1,413	130	1,040
CONTINUING EDUCATION EXAMS				
Field Representative Examined	0	1	0	0
Field Representative Passed	0	0	0	0
Field Representative Failed	0	0	0	0
Operator Examined	0	1	2	2
Operator Passed	0	0	2	2
Operator Failed	0	0	0	0
Applicator Examined	0	0	0	1
Applicator Passed	0	0	0	1
Applicator Failed	0	0	0	0

LICENSING UNIT SURVEY RESULTS
October 16 & 17, 2014 – SPCB Meeting
June14, 2014 – September 26, 2014

Response cards are sent to licensees, registered companies, and applicants receiving the following services: Licensure, Renewal of License, Upgrade/Downgrade License, Change of Qualifying Manager, Bond/Insurance, Company Registration, Transfer of Employment, Change of Address, and Examination. 235 survey cards were mailed during this reporting period. 45 responses were received.

	Question	Yes	No	N/A
1	Was staff courteous?	95%	2.5%	2.5%
2	Did staff understand your question?	93%	0%	3%
3	Did staff clearly answer your question?	95%	0%	5%
4	Did staff promptly return your telephone call?	62%	13%	25%
5	Did staff efficiently and promptly handle your transaction?	89%	4.5%	6.5%
6	How long did it take to complete its action on your file?* (Average)	9 days		

*There were 28 responses for question six. The answers ranged from 1 day to 30 days.

Company Registration – 2 days average (2 responses)

Operator License – 20 days average (1 responses)

Field Representative License – No responses

Applicator License – 10 days average (7 responses)

Transfer of Employment – No responses

Change of Address – No responses

Bond/Insurance – No responses

Change of Qualifying Manager – No responses

Examination – 10 days average (18 responses)

Comments:

- Great work!
- Very good service.
- Wonderful service from the two gentlemen who assisted me.
- Some staff are ok, but some do not bother to return calls.

- Excellent.
- The exam room was too cold and they did not allow me to wear my shirt because it had pockets. Hope we know this kind of information in advance so we can prepare a better outfit for exam.
- You guys are the best. Keep up the great work. God Bless.
- I left a message Monday and by Wednesday I hadn't received a call so I left another message.
- In and out of your office within 10 minutes.
- Not sure how many days. Received letter to take exam within 3 days and license was mailed promptly and received.
- Great idea to have P.S.I. locations in different areas.
- I understand it takes a while to process applications as there are so many pest control companies, but staff was really helpful and nice. Thanks.
- Thanks.
- Thank you for all of your help.
- Process from start to finish was pretty smooth. Thanks.
- Thank you, Mr. Munoz!
- Awesome experience.
- People are nice, but process takes way too long.
- All staff was courteous and kind.
- Thanks DCA & SPCB for this new testing place.
- The examination process is extraordinarily difficult. Approved study material would be very helpful.
- In the test there were much more integrated pest control questions about items, scenarios, and others that were not in our study material. When I finished the exam I was reserved to the fact that I failed the test. Was very surprised I passed it!
- Good staff! Exactly how a test should be given.

COMPLAINT HANDLING SURVEY

October 16 & 17, 2014 – SPCB Meeting
June 14, 2014 – September 26, 2014

Results from survey cards sent to consumers and companies for closed complaints/cases.

17 responses were received from consumers

	Question	Yes	No	N/R
1	Was our representative courteous?	17	0	0
2	Do you feel the representative understood your problem?	16	1	0
3	Did our representative fully explain our role and jurisdiction over your problem?	16	1	0
4	Did our representative deal with your problem in a fair and reasonable manner?	17	0	0
5	Were you satisfied with the results?	17	0	0
6	If you experience structural pest control problems in the future, would you contact the Board?	17	0	0
7	Will you recommend our serves to others?	17	0	0
8	How long did it take the Board to complete its action on your problem?*(Average)	27 days		

*There were 7 survey responses from question number 8. The answers ranged from 6 days to 90

6 responses were received from companies

	Question	Yes	No	N/R
1	Was our representative courteous?	6	0	0
2	Do you feel the representative understood the aspects of the case?	6	0	0
3	Did our representative deal with the case in a fair and reasonable manner?	6	0	0
4	Were you given adequate time to resolve the consumer complaint?	6	0	0
5	Were you satisfied with the results?	6	0	0

COMPLAINT SURVEY RESPONSES
October 16 & 17, 2014 - SPCB Meeting

13-367	Consumer	Unsure on question #8. It was not too long if I remember correctly.
14-263	Company	No comment
14-292	Consumer	Thank you for your help. We felt very confident in the services and fairness of our Specialists and the Board.
14-337	Consumer	PR0000 should be put out of business.
14-361	Company	No comment
14-447	Consumer	No comment
14-450	Consumer	Donald Graves is a great asset to your team. I always felt he was fair in his decisions and extremely organized.
14-473	Company	No comment
14-506	Company	No comment
14-507	Company	No comment
14-514	Consumer	No comment
14-516	Consumer	Very good service!
14-529	Consumer	Thank you for your help!
14-535	Consumer	No comment
14-537	Consumer	Was PR reprimanded for their false report?
14-540	Company	No comment
14-541	Consumer	I am very pleased with the services and professionalism that was given to us. I would recommend any one to you with a termite problem. Thank you.
14-561	Consumer	Thank you for your assistance.
14-577	Consumer	Great service!
15-26	Consumer	I was able to get PR to settle without any action needed by SPCB.
15-34	Consumer	Thank you for helping me. If I had not contacted you they would have not complied at all with the agreement and changes of the contract that was agreed to in writing of the revisions.
15-59	Consumer	Thanks for helping me!
15-63	Consumer	Excellent service. Thank you so much!

WDO ACTIVITIES FILED

	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	MO. AVG
July	110,615	99,163	116,972	110,432	123,958	122,803	**113,991**
August	113,033	104,141	124,622	110,534	116,087	112,400	**113,470**
September	110,919	87,158	117,013	103,223	129,161		**109,495**
October	120,744	113,586	120,171	120,645	117,714		**118,572**
November	107,830	90,626	110,723	102,655	103,787		**103,124**
December	88,499	81,140	91,644	88,935	101,132		**90,270**
January	82,806	77,774	84,492	94,775	92,959		**86,561**
February	88,560	83,071	95,226	98,208	88,870		**90,787**
March	120,443	109,522	108,429	114,785	109,979		**112,632**
April	124,141	117,107	118,528	121,802	122,692		**120,854**
May	116,654	120,792	111,594	115,207	114,956		**115,841**
June	133,637	118,929	113,080	116,313	117,773		**119,946**
FY Total	***1,317,881***	***1,203,009***	***1,312,494***	***1,297,514***	***1,339,068***	***235,203***	**1,117,528**
AVG PER MO.	109,823	100,251	109,375	108,126	111,589	117,602	

Computer Based Testing Stats
July 2014 - September 2014

	Total	Pass	Fail	Percentage
Branch 1 Field Representative	20	7	13	35%
Branch 1 Operator	11	1	10	9%
Branch 2 Field Representative	449	72	377	16%
Branch 2 Operator	62	18	44	29%
Branch 3 Field Representative	251	33	218	13%
Branch 3 Operator	27	12	15	44%

California LEGISLATIVE INFORMATION

SB-1244 Structural Pest Control Board. (2013-2014)

Senate Bill No. 1244

CHAPTER 560

An act to amend Sections 8505, 8505.1, 8505.2, 8505.5, 8505.10, 8505.12, 8505.14, 8505.17, 8507.1, 8514, 8518, 8520, 8528, 8551.5, 8560, 8562, 8564, 8564.6, 8565, 8566, 8567, 8590, 8593.1, 8612, 8613, 8617, 8622, 8643, 8647, 8651, 8660, 8673, and 8674 of, to add Sections 8504.1 and 8672.1 to, and to repeal Sections 8505.6, 8565.6, and 8590.1 of, the Business and Professions Code, relating to the Structural Pest Control Board.

[Approved by Governor September 25, 2014. Filed with Secretary of State September 25, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1244, Lieu. Structural Pest Control Board.

Existing law, until January 1, 2015, establishes the Structural Pest Control Board, within the Department of Consumer Affairs, and authorizes the Director of Consumer Affairs to appoint a registrar to be the executive officer of the board. The board is required to license and regulate structural pest control operators, as specified.

This bill would extend the operation of those provisions until January 1, 2019.

Existing law provides, in pertinent part, that structural pest control includes, with respect to household pests and wood destroying pests or organisms, or other pests which may invade households or other structures, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, among other

things, the identification of infestations, or the use of insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestations or infections of those pests, or organisms. Under existing law, an applicator's license expires 3 years from the date the license is issued.

This bill would define the term "pesticide" to include any spray adjuvant and any substance, or mixture of substances, that is intended to be used for preventing, destroying, repelling, or mitigating any pest or organism, and would make conforming changes pertaining to that definition. The bill would delete obsolete provisions pertaining to the definition of fumigants and fumigation procedures, and would conform notice provisions relating to fumigation to other provisions of law. The bill would authorize, in specified circumstances, waiving the use of warning agents in conjunction with fumigants. The bill would provide that an applicator's license instead would expire on June 30 of the 3rd year after issuance.

Existing law requires registered structural pest control companies to submit monthly reports to the county agricultural commissioner reporting the name and registration number of each pesticide, the amount used, and the number of applications made. Existing law requires the report to have a pesticide stamp issued by the board, as specified.

This bill would authorize the use of pesticide stamp numbers in addition to pesticide stamps for those purposes. The bill would delete the requirement that the monthly reports specify the number of applications made for a pesticide. The bill would require structural pest control licensees to maintain a copy of the monthly report for 3 years after submission.

Existing law prescribes various fees for licensing, registration, examinations, and other purposes pertaining to structural pest control matters, and authorizes a fee of $2 for a pesticide use stamp in connection with a monthly pesticide report. Existing law provides that those fees may be deposited in the Structural Pest Control Research Fund, or with a bank or other depository, as specified.

This bill would prescribe a $2 fee for a pesticide use stamp number. The bill would delete provisions for deposit of the stamp and stamp number fees with a bank or other depository, and would make additional conforming changes.

Existing law authorizes suspension and fines to be imposed on a registered structural pest control company for specified violations.

This bill would provide that the time for an action for a suspension or fine against a structural pest control licensee or registered company would be 2 years from the date of the violation, provided however, that when an agricultural commissioner submits a completed investigation to the registrar of the Structural Pest Control Board, or the Attorney General, the action would be required to be

brought within one year of the commissioner's submission.

Existing law establishes a disciplinary review committee, in connection with disciplinary procedures against structural pest control licensees and registered companies, which requires as a member of the committee, a person representing the Secretary of Food and Agriculture.

This bill would instead require as a member of the committee, a person who represents the Director of Pesticide Regulation.

The bill would make additional conforming and technical, nonsubstantive changes.

The bill would incorporate changes to Section 8674 of the Business and Professions Code proposed by both this bill and AB 1685 which would become operative only if both bills are enacted and become effective on or before January 1, 2015, and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8504.1 is added to the Business and Professions Code, to read:

8504.1. "Pesticide" includes any of the following:

(a) Any spray adjuvant.

(b) Any substance, or mixture of substances, which is intended to be used for preventing, destroying, repelling, or mitigating any pest or organism.

SEC. 2. Section 8505 of the Business and Professions Code is amended to read:

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.

(b) "Household pests" are defined for the purpose of this chapter as those pests other than wood destroying pests or organisms, which invade households and other structures, including, but not limited to, rodents, vermin, and insects.

SEC. 3. Section 8505.1 of the Business and Professions Code is amended to read:

8505.1. (a) Except as provided in subdivisions (b) and (c), for the purpose of this act, "fumigation" shall be defined as the use within an enclosed space for the destruction of plant or animal life, a substance having a vapor pressure greater than 5 millimeters of mercury at 25 degrees centigrade when the substance is labeled for those purposes.

The following is a list of lethal fumigants:

(1) Methyl bromide.

(2) Sulfuryl fluoride.

(3) Aluminum phosphide.

The board may adopt, and may as necessary amend, by regulation, a list of fumigants.

(b) For the purpose of this act, "warning agent" is any agent used in combination with any fumigant that lacks warning properties.

The following is a warning agent:

Chloropicrin.

The board may adopt, and may as necessary amend, by regulation, a list of warning agents.

(c) For the purpose of this act "simple asphyxiants" shall not be deemed to be fumigants.

The following is a list of simple asphyxiants:

(1) Liquid nitrogen.

(2) Carbon dioxide.

The board may adopt, and may as necessary amend, by regulation, a list of simple asphyxiants.

SEC. 4. Section 8505.2 of the Business and Professions Code is amended to read:

8505.2. Fumigation shall be performed only under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in Branch 1 as set forth in Section 8560.

SEC. 5. Section 8505.5 of the Business and Professions Code is amended to read:

8505.5. (a) Notice of the date and place of fumigation, and chemicals to be used, shall be given by the fumigator to the fire department serving the area in which fumigation is to be performed not less than two hours prior to the time fumigation begins. The fire department shall not charge any fees for any service related to structural pest control activities except for the costs of an emergency response necessitated by illegal or negligent actions.

(b) Notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed. The notice, which may be mailed or given by telephone, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. A fee shall not be assessed for processing this notice.

SEC. 6. Section 8505.6 of the Business and Professions Code is repealed.

SEC. 7. Section 8505.10 of the Business and Professions Code is amended to read:

8505.10. Warning signs shall be printed in red on white background and shall contain the following statement in letters not less than two inches in height: "DANGER—FUMIGATION." They shall also depict a skull and crossbones not less than one inch in height and shall state in letters not less than one-half inch in height the name of the fumigant. These signs shall also include in legible ink of any color, the date and time fumigant was injected, and the name, address, and telephone number of the registered company performing the fumigation. Warning signs placed under a tarpaulin shall not be required to state the time the fumigant was injected.

SEC. 8. Section 8505.12 of the Business and Professions Code is amended to read:

8505.12. A registered company performing fumigation shall use an adequate warning agent with all fumigants which lack those properties. There may be circumstances in which the use of chloropicrin is not possible due to its unknown

effects on sensitive items, including, but not limited to, artifacts in museums or in police evidence storage. In these circumstances, waiving the use of chloropicrin shall be approved by the state regulatory authority and documented in advance and shall include alternative safety precautions which address initial clearance of the site to be fumigated, potential movement of the fumigant to unattended areas, and continued site security. When conditions involving abnormal hazards exist, the licensee exercising direct and personal supervision shall take those safety precautions in addition to those prescribed by this chapter as are reasonably necessary to protect the public health and safety.

SEC. 9. Section 8505.14 of the Business and Professions Code is amended to read:

8505.14. "Fumigator" means any individual licensed by the board as a structural pest control operator or as a structural pest control field representative in Branch 1 as set forth in Section 8560.

SEC. 10. Section 8505.17 of the Business and Professions Code is amended to read:

8505.17. (a) There is hereby continued in existence in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Pesticide Regulation for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 and Section 15202 of the Food and Agricultural Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

(b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section 8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.

(c) Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide and the amount used. The report shall be submitted to the commissioner by the 10th day of the month following the month of application and a copy shall be

maintained by the licensee for a period of three years after the report submission date. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall require a pesticide use stamp or stamp number issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and stamp numbers and for the refund of moneys paid for stamps and stamp numbers which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. A pesticide use stamp or stamp number is not required on negative use reports.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

SEC. 11. Section 8507.1 of the Business and Professions Code is amended to read:

8507.1. (a) (1) "Structural pest control applicator" is any individual who is licensed by the board to apply pesticides in Branch 2 or Branch 3 on behalf of a registered company.

(2) A structural pest control applicator shall not contract for pest control work or perform pest control work in his or her own behalf.

(b) As used in this chapter, "applicator" refers to "structural pest control applicator."

SEC. 12. Section 8514 of the Business and Professions Code is amended to read:

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.

(b) Notwithstanding any provision of this chapter, after an inspection has been made, a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but whose branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided that it subcontracts, in writing, the actual performance of the work to a registered company which holds a branch

registration authorizing the particular method to be used.

(c) A registered company may subcontract, in writing, any pest control work for which it is registered in any branch or branches to a registered company holding a valid branch registration to do that work.

(d) Nothing in this chapter shall be construed to prohibit a registered company or the consumer from subcontracting with a licensed contractor to do any work authorized under Section 8556.

(e) A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer shall be informed in advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

(f) Nothing contained in this section shall permit or authorize a registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified, or registered to perform, pest control work in a branch, or by a method, for which it is not registered, except that a Branch 2 or Branch 3 registered company may advertise fumigation or any all encompassing treatment described in paragraph (8) of subdivision (a) of Section 1991 of Title 16 of the California Code of Regulations if the company complies with the requirements of this section.

(g) Subcontracting of work, as permitted in this section, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, an act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for an act or omission in the performance of the work that the consumer directly contracts with another registered company, person, or entity to perform, as permitted by this section. All home solicitation contracts shall comply with Chapter 2 (commencing with Section 1688) of Title 5 of Part 2 of Division 3 of the Civil Code.

SEC. 13. Section 8518 of the Business and Professions Code is amended to read:

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. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

(b) The address of each property inspected or upon which work was 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 completed work.

(c) A filing fee shall be assessed pursuant to Section 8674 for every property upon which work is completed.

(d) Failure of a registered company to report and file with the board the address of any property upon which work was completed pursuant to subdivision (b) of Section 8516 or Section 8518 is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars ($2,500).

(e) The registered company shall retain for three years all original notices of work completed, work not completed, and activity forms.

(f) Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

SEC. 14. Section 8520 of the Business and Professions Code is amended to read:

8520. (a) There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members.

(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100), the board is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the board.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 15. Section 8528 of the Business and Professions Code is amended to read:

8528. (a) With the approval of the director, the board shall appoint a registrar, fix his or her compensation, and prescribe his or her duties.

(b) The registrar is the executive officer and secretary of the board.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 16. Section 8551.5 of the Business and Professions Code is amended to read:

8551.5. Except as provided in this chapter, an unlicensed individual in the employ of a registered company shall not apply any pesticides included in Branch 2 or Branch 3. However, an individual may, for 90 days from the date of employment, apply pesticides for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 90-day time period may not be extended.

SEC. 17. Section 8560 of the Business and Professions Code is amended to read:

8560. (a) Licenses issued to operators, field representatives, or applicators shall be limited to the branch or branches of pest control for which the applicant has qualified by application and examination.

(b) For the purpose of delimiting the type and character of work authorized by the various branch licenses, the practice of pest control is classified into the following branches:

(1) Branch 1. Fumigation. The practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases.

(2) Branch 2. General pest. The practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases.

(3) Branch 3. Termite. The practice relating to the control of wood-destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.

(c) The board may issue a license for a combination of two or more branches for which an applicant qualifies under the provisions of this chapter, and the combination license shall be considered one license.

(d) Unless otherwise authorized by the board, all examinations shall be supplied by the board. All examinations shall be kept for a period of one year, upon the expiration of which these records may be destroyed on order of the board. Each applicant for license as an operator or a field representative shall be designated by a number instead of by name, and the identity thereof shall not be disclosed until the examinations are graded. A person shall not be admitted to the

examination room except members of the board, the examining personnel, and the applicants.

(e) The board shall make rules and regulations for the purpose of securing fair, impartial, and proper examinations.

(f) Licensees may be licensed in other branches upon complying with the requirements for qualification and by examination in those other branches. A failure of the licensee to pass examination in the other branch or branches shall not have any effect on existing licenses.

(g) The examination shall be in each of the subjects specified in the branch or branches relating to the respective applications. A license according to the applications shall be granted to any applicant who shall make a general average of not less than 70 percent on each of the subjects of the branch or branches.

SEC. 18. Section 8562 of the Business and Professions Code is amended to read:

8562. (a) To obtain an original operator's license, an applicant shall submit to the registrar an application containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

(b) The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(1) The name of the applicant.

(2) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches of pest control listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of that experience:

Branch 1 ..... 2 years

Branch 2 ..... 2 years

Branch 3 ..... 4 years

(c) For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field.

(d) A designation of the branch or branches for which the application is made.

(e) The fees prescribed by this chapter.

(f) No operator's license shall be issued to an individual under 18 years of age.

(g) Effective January 1, 1993, an operator's license shall not be issued to an individual unless that individual has been licensed as a field representative in the branch in which the individual has applied for an operator's license for a period of at least one year, in the case of Branches 1 and 2, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of that training and experience.

SEC. 19. Section 8564 of the Business and Professions Code is amended to read:

8564. (a) To obtain an original field representative's license, an applicant shall submit to the registrar an application containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

(b) The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(1) The length of time during which the applicant has engaged in any work relating to pest control.

(2) The name and place of business of the person who last employed him or her.

(3) The name of the person by whom the applicant is employed.

(4) The name of the registered company by which the applicant is to be employed.

(5) The fees prescribed by this chapter.

(c) The board shall not accept any application for a field representative's license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating, or the equivalent of that training and experience.

(d) The board shall not accept any application for a field representative's license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of that training and experience.

(e) The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment,

pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of that training and experience.

SEC. 20. Section 8564.6 of the Business and Professions Code is amended to read:

8564.6. (a) To obtain an original applicator's license, an applicant shall submit to the registrar an application containing a statement that the applicant requests the issuance of an applicator's license under the terms of this chapter.

(b) The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board and shall contain the following:

(1) The name of the registered company by which the applicant is to be employed.

(2) The fee prescribed by this chapter.

SEC. 21. Section 8565 of the Business and Professions Code is amended to read:

8565. The board shall ascertain by examination that an applicant for a license as operator is qualified in the use and understanding of all of the following:

(a) The English language, including reading and writing.

(b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(c) The labor laws of the state.

(d) The provisions of this chapter.

(e) Pesticides used in pest control, if the branch license or licenses for which he or she is applying, require that knowledge.

(f) The theory and practice of the branch or branches of pest control in which the applicant desires to be licensed.

(g) Other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control in the various branches, including an applicant's knowledge of the requirements regarding health effects and restrictions on applications, as set forth in Section 8538.

SEC. 22. Section 8565.6 of the Business and Professions Code is repealed.

SEC. 23. Section 8566 of the Business and Professions Code is amended to read:

8566. The board shall ascertain by examination that an applicant for a license as field representative is qualified in the use and understanding of the following:

(a) The safety laws of the state, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(b) The provisions of this chapter.

(c) Pesticides used in pest control, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(d) The theory and practice of pest control in the branch or branches thereof for which the applicant desires to be licensed.

(e) Other state laws, safety or health measures, or practices as are reasonably within the scope of structural pest control in the various branches.

SEC. 24. Section 8567 of the Business and Professions Code is amended to read:

8567. Should a field representative or applicator change his or her employment, or should an operator enter the employ of a registered company, or being already employed by a registered company change his or her employment, or being employed by a registered company leave that employment and enter the pest control business on his or her own behalf, he or she shall notify the registrar on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The registrar shall register the change in his or her records.

SEC. 25. Section 8590 of the Business and Professions Code is amended to read:

8590. (a) Except as otherwise provided herein, an operator's, field representative's, and applicator's licenses shall expire at 12 midnight on June 30 of the third year from the date of issue.

(b) An individual licensed in more than one category may request that each license expire on the same date. The date requested shall be the date of the earliest expiration.

(c) An operator, field representative, and applicator shall pay a fee for the renewal of his or her license.

(d) The board shall on or before the first day of June of each year mail to each operator, field representative, and applicator whose license will expire in that year, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by June 30, a penalty will be added thereto.

(e) In no case shall the penalty be waived.

(f) Upon the receipt of the fee the board shall cause the renewal certificate to be issued.

SEC. 26. Section 8590.1 of the Business and Professions Code is repealed.

SEC. 27. Section 8593.1 of the Business and Professions Code is amended to read:

8593.1. The board shall require as a condition to the renewal of each applicator's license that the holder thereof submit proof satisfactory to the board that he or she has completed courses of continuing education in pesticide application and use approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may successfully apply for and pass an appropriate applicator's examination for renewal of a license given by the board.

SEC. 28. Section 8612 of the Business and Professions Code is amended to read:

8612. (a) The licenses of qualifying managers and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains.

(b) When a registered company opens a branch office it shall notify the registrar on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

SEC. 29. Section 8613 of the Business and Professions Code is amended to read:

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, or its bond or insurance shall notify the registrar on a form prescribed by the board of that change within 30 days thereafter. A fee for filing those changes shall be charged in accordance with Section 8674.

SEC. 30. Section 8617 of the Business and Professions Code is amended to read:

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a

licensee, registered company, or an unlicensed individual acting as a licensee, may levy an administrative fine up to one thousand dollars ($1,000) or direct the licensee to attend and pass a board-approved course of instruction at a cost not to exceed the administrative fine, or both, for each violation of this chapter or Chapter 14.5 (commencing with Section 8698), or any regulations adopted pursuant to these chapters, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to pesticides. However, any violation determined by the board or the commissioner to be a serious violation as defined in Section 1922 of Title 16 of the California Code of Regulations shall be subject to a fine of not more than five thousand dollars ($5,000) for each violation. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.

(b) A licensee who passes a course pursuant to this section shall not be awarded continuing education credit for that course.

(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of receipt of the written notice of proposed action.

(d) A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address.

(e) If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and a right to present evidence on his or her own behalf. If a hearing is not requested within the prescribed time, the commissioner may take the action proposed without a hearing.

(f) If the person upon whom the commissioner imposed a fine or suspension or required attendance at a board-approved course of instruction requested and appeared at a hearing before the commissioner, the person may appeal the

commissioner's decision to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.

(g) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the commissioner's decision if no appeal is filed. If an appeal pursuant to Section 8662 is filed, the commissioner's order shall be stayed until 30 days after the Disciplinary Review Committee has ruled on the appeal.

(h) Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board.

(i) If a citation containing a fine is issued to a licensee and it is not contested or the time to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of that license. A license shall not be renewed without payment of the renewal fee and fine.

(j) If a citation containing a fine is issued to a registered company and it is not contested or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the registered company any pesticide use stamps until the assessed fine has been paid.

(k) If a citation containing the requirement that a licensee attend and pass a board-approved course of instruction is not contested or the time to appeal the citation has expired and the licensee has not attended and passed the required board-approved course of instruction, the licensee's license shall not be renewed without proof of attendance and passage of the required board-approved course of instruction.

(l) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

(m) If the board is the party issuing the notice of proposed action to suspend or impose a fine pursuant to subdivision (a), "commissioner" as used in subdivisions (c), (f), and (g) includes the board's registrar.

(n) An action brought pursuant to this section shall be commenced by the commissioner within two years of the occurrence of the violation. If a commissioner submits a completed investigation to the board for action by the registrar or the Attorney General, the action shall be commenced within one year of that submission.

SEC. 31. Section 8622 of the Business and Professions Code is amended to read:

8622. (a) When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring the property into compliance, unless an extension is authorized by the board, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

(b) The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. If a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

SEC. 32. Section 8643 of the Business and Professions Code is amended to read:

8643. The negligent handling or use of any pesticide is a ground for disciplinary action.

SEC. 33. Section 8647 of the Business and Professions Code is amended to read:

8647. Failure to comply in the sale or use of pesticides with the provisions of Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code is a ground for disciplinary action.

SEC. 34. Section 8651 of the Business and Professions Code is amended to read:

8651. The performing or soliciting of structural pest control work, the inspecting for structural or household pests, or the applying of any pesticide for the purpose of eliminating, exterminating, controlling, or preventing structural or household pests in branches of pest control other than those for which the operator, field representative, or applicator is licensed or the company is registered is a ground for disciplinary action.

SEC. 35. Section 8660 of the Business and Professions Code is amended to read:

8660. A disciplinary review committee consisting of three members shall be established for the purposes of reviewing appeals of orders issued pursuant to Section 8617. The committee shall be made up of one member representing the Director of Pesticide Regulation and one member representing the board. The third member shall be a licensed pest control operator actively involved in the business of pest control and shall be selected by agreement of the other members.

SEC. 36. Section 8672.1 is added to the Business and Professions Code, to read:

8672.1. (a) As used in this chapter, "original applicator's license" means an applicator's license issued for an individual who did not have a license on the preceding June 30.

(b) For the purposes of this chapter, a renewal of an applicator's license means an applicator's license issued to an individual who had an applicator's license on June 30 of the preceding renewal period.

SEC. 37. Section 8673 of the Business and Professions Code is amended to read:

8673. License fees shall not be prorated unless an individual licensed as an operator, a field representative, or an applicator requests an earlier expiration date of one of the licenses in accordance with Section 8590. All license and registration fees shall be paid in advance of the issuance of the license or registration, and all examination fees shall be paid in advance of the examination.

SEC. 38. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than twenty-five dollars ($25).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120).

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative's examination fee of not more than fifteen dollars ($15).

(i) A field representative's license fee of not more than forty-five dollars ($45).

(j) A field representative's license renewal fee of not more than forty-five dollars ($45).

(k) An applicator's examination fee of not more than fifteen dollars ($15).

(l) An applicator's license fee of not more than fifty dollars ($50).

(m) An applicator's license renewal fee of not more than fifty dollars ($50).

(n) An activity form fee, per property address, of not more than three dollars ($3).

(o) A fee for certifying a copy of an activity form of not more than three dollars ($3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(r) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars ($2) for each pesticide use stamp or stamp number purchased from the board. Notwithstanding any other law, the fee established pursuant to this subdivision shall be deposited into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research.

(2) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(3) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from the Structural Pest Control Board, the structural pest control industry, the Department of Pesticide Regulation, and the University of California. The panel, or other entity designated

by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(4) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

SEC. 38.5. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than one hundred dollars ($100).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120).

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative's examination fee of not more than seventy-five dollars ($75).

(i) A field representative's license fee of not more than forty-five dollars ($45).

(j) A field representative's license renewal fee of not more than forty-five dollars ($45).

(k) An applicator's examination fee of not more than sixty dollars ($60).

(l) An applicator's license fee of not more than fifty dollars ($50).

(m) An applicator's license renewal fee of not more than fifty dollars ($50).

(n) An activity form fee, per property address, of not more than three dollars

($3).

(o) A fee for certifying a copy of an activity form of not more than three dollars ($3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(r) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars ($2) for each pesticide use stamp or stamp number purchased from the board. Notwithstanding any other law, the fee established pursuant to this subdivision shall be deposited into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research.

(2) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(3) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from the Structural Pest Control Board, the structural pest control industry, the Department of Pesticide Regulation, and the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(4) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

SEC. 39. Section 38.5 of this bill incorporates amendments to Section 8674 of the Business and Professions Code proposed by both this bill and Assembly Bill 1685. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 8674 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 1685, in which case Section 38 of this bill shall not become operative.

California LEGISLATIVE INFORMATION

SB-1405 Pesticides: schoolsites. (2013-2014)

Senate Bill No. 1405

CHAPTER 848

An act to add Section 8593.2 to the Business and Professions Code, to amend Sections 17609, 17610, 17611, and 17612 of, and to add Sections 17611.5 and 17614 to, the Education Code, and to amend Sections 12996, 12999.4, 13181, 13182, 13183, and 13187 of, and to add Section 13186.5 to, the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 29, 2014. Filed with Secretary of State September 29, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1405, DeSaulnier. Pesticides: schoolsites.

(1) Existing law, the Healthy Schools Act of 2000, requires each schoolsite to maintain records of all pesticide use at the schoolsite for a period of 4 years and to make these records available to the public upon request, as specified. Existing law authorizes a schoolsite to meet these requirements by retaining a copy of the warning sign posted for each pesticide application, as specified, and recording on the copy the amount of pesticide used. Existing law requires a schoolsite or school district to identify an individual, known as a school designee, to carry out the requirements of the act.

This bill, if a schoolsite chooses to use certain pesticides, would require the school designee, at the end of each calendar year, or more often at his or her discretion, to submit to the Director of Pesticide Regulation a copy of the records, as specified, of all pesticide use at the schoolsite. The bill, if a schoolsite chooses to use certain pesticides, would require the school designee to develop and post on

the Internet Web site of the schoolsite, or, if the schoolsite does not maintain an Internet Web site, the school district, an integrated pest management plan, as defined, for the schoolsite or school district, except if neither the schoolsite nor the school district maintains an Internet Web site, the school designee would be required to include the integrated pest management plan with a certain annual notification sent to staff and parents or guardians of pupils enrolled at the schoolsite. The bill would authorize a school designee to do these things related to an integrated pest management plan if the schoolsite does not choose to use certain pesticides.

(2) Existing law requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites that voluntarily choose to do so, excluding privately operated child day care facilities. For these schoolsites, existing law requires the department to establish an integrated pest management program for schoolsites. Existing law, in establishing the program, requires the department to develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite and develop a model program guidebook, as specified, that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. Existing law provides that a violation of the laws, and the regulations adopted pursuant to those laws, relating to pesticides is generally a misdemeanor.

This bill would require the Department of Pesticide Regulation to develop a training course to train any person who intends to apply pesticides on a schoolsite, and would require the training course to cover integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health. The bill would require the training course to be provided by the department or an agent authorized by the department. The bill would, commencing July 1, 2016, and except as provided, require a school designee, and any person who intends to apply a pesticide at a schoolsite subject to the act, to annually complete a training course provided by the department or an agent authorized by the department. The bill would, commencing July 1, 2016, require any person hired to apply a pesticide at a schoolsite subject to the act, to complete at least a one-hour training course in integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health before applying pesticides at such a schoolsite, and during each subsequent licensing period in which he or she applies a pesticide at a schoolsite subject to the act, and would provide that this training course may be applied to his or her professional continuing education requirements. The bill would require the one-hour training course to be developed by the department, would authorize a provider approved by the Structural Pest Control Board to also develop the one-hour training course if the training course has been approved by the department, and would require the department to ensure that the one-hour training course it develops or approves meets the requirements for continuing education credit

required by the Structural Pest Control Board and the department. The bill would exclude the violation of the provisions requiring the completion of an annual training course from being a crime.

(3) Existing law provides for the regulation of registered structural pest control companies by the Structural Pest Control Board. Existing law authorizes any individual 18 years of age or over to apply for a license as an operator, field representative, or applicator, as specified. Existing law requires the board to require as a condition of the renewal of an operator's, field representative's, or applicator's license that the licenseholder submit proof satisfactory to the board that he or she has completed courses of continuing education in pest control or pesticide application and use approved by the board or equivalent activity approved by the board. Existing law provides that any person who violates any provision related to structural pest control operators, or who conspires with another person to violate those provisions, is guilty of a misdemeanor and is punishable, as specified.

This bill, commencing July 1, 2016, would require a licensee to comply with the training requirements of the Healthy Schools Act of 2000 if the licensee intends to apply a pesticide at a schoolsite, as defined. The bill would provide that training courses completed in furtherance of the Healthy Schools Act of 2000 count toward the continuing education requirements of the board and qualify as continuing education in integrated pest management. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) This bill would make conforming changes and various nonsubstantive changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8593.2 is added to the Business and Professions Code, to read:

8593.2. Commencing July 1, 2016, a licensee shall comply with the training requirements of the Healthy Schools Act of 2000 (Article 4 (commencing with Section 17608) of Chapter 5 of Part 10.5 of Division 1 of Title 1 of the Education

Code and Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code) if the licensee intends to apply a pesticide at a schoolsite, as defined in subdivision (f) of Section 17609 of the Education Code. Courses completed in furtherance of the training requirements of the Healthy Schools Act of 2000 shall count toward the continuing education requirements of the board and shall qualify as continuing education in integrated pest management.

SEC. 2. Section 17609 of the Education Code is amended to read:

17609. The definitions set forth in this section govern the construction of this article unless the context clearly requires otherwise:

(a) "Antimicrobial" means those pesticides defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

(b) "Crack and crevice treatment" means the application of small quantities of a pesticide consistent with labeling instructions in a building into openings such as those commonly found at expansion joints, between levels of construction, and between equipment and floors.

(c) "Emergency conditions" means any circumstances in which the school designee or a property owner of a property where a privately operated child day care facility is located, or the property owner's agent, deems that the immediate use of a pesticide is necessary to protect the health and safety of pupils, staff, or other persons, or the schoolsite.

(d) "Integrated pest management plan" means a written plan based on a template provided or approved by the Department of Pesticide Regulation that outlines a strategy for integrated pest management, as described in Section 13181 of the Food and Agricultural Code.

(e) "School designee" or "IPM coordinator" means a schoolsite or school district employee identified by a schoolsite or school district to carry out the requirements of this article or to ensure that the requirements of this article are carried out.

(f) "Schoolsite" means any facility used as a child day care facility, as defined in Section 1596.750 of the Health and Safety Code, or for kindergarten, elementary, or secondary school purposes. The term includes the buildings or structures, playgrounds, athletic fields, vehicles, or any other area of property visited or used by pupils. "Schoolsite" does not include any postsecondary educational facility attended by secondary pupils or private kindergarten, elementary, or secondary school facilities. For child day care facilities, the State Department of Social Services shall serve as the liaison to these facilities, as needed.

SEC. 3. Section 17610 of the Education Code is amended to read:

17610. (a) It is the policy of the state that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites and that the state, in order to reduce children's exposure to toxic pesticides, shall take the necessary steps, pursuant to Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code, to facilitate the adoption of effective least toxic pest management practices at schoolsites. It is the intent of the Legislature that all school personnel involved in the application of a pesticide at a schoolsite be trained in integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health.

(b) (1) (A) A property owner of a property where a child day care facility is located, or the property owner's agent, who personally applies any pesticides on an area listed in paragraph (2) shall provide notice to the child day care facility as described in paragraph (3) at least 120 hours before the application, unless an emergency condition, as defined in Section 17609, exists.

(B) An owner of property on which a child day care facility is located shall be subject to the requirement to provide notice pursuant to this subdivision 30 days after it has received notice from a child day care facility of its presence at the property, unless the property owner, or his or her agent, received that notice pursuant to paragraph (1) of subdivision (d) of Section 1597.40 of the Health and Safety Code before the effective date of this subdivision in which case the property owner shall be subject to the notice requirements on and after the effective date of this subdivision.

(2) This subdivision applies when a property owner or his or her agent intends to personally apply pesticides on any of the following:

(A) Inside the rented premises on which the child day care facility is located.

(B) Upon a designated child day care facility playground designated by the property owner.

(C) Upon an area designated for use by the child day care facility.

(D) Upon an area within 10 feet of the perimeter of the child day care facility.

(3) The notice required by paragraph (1) shall include the following:

(A) The product name.

(B) The manufacturer's name.

(C) The active ingredients of each pesticide.

(D) The United States Environmental Protection Agency's product registration number.

(E) The intended date of application.

(F) The areas of application listed in paragraph (2).

(G) The reason for application.

(4) A notice of pesticide application provided to a tenant pursuant to subdivision (d) of Section 13186 of the Food and Agricultural Code shall satisfy the notice requirements of this section.

(5) If the child day care facility ceases to operate on the property, the provisions of this act shall no longer apply to the property.

SEC. 4. Section 17611 of the Education Code is amended to read:

17611. (a) Each schoolsite shall maintain records of all pesticide use at the schoolsite for a period of four years, and shall make this information available to the public, upon request, pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). A schoolsite may meet the requirements of this section by retaining a copy of the warning sign posted for each application required pursuant to Section 17612, and recording on that copy the amount of the pesticide used.

(b) (1) If a schoolsite chooses to use a pesticide not included within Section 17610.5, at the end of each calendar year, or more often at the discretion of a school designee, the school designee shall submit to the Director of Pesticide Regulation a copy of the records of all pesticide use at the schoolsite for the calendar year. The records submitted to the Director of Pesticide Regulation shall be submitted using a form prepared by the Department of Pesticide Regulation similar to that prepared pursuant to subdivision (b) of Section 13186 of the Food and Agricultural Code, and shall include all of the following:

(A) The name of a school designee for the schoolsite.

(B) The name and address of the schoolsite, or the department code or licensed child day care facility number indicating if the site is an elementary or secondary school facility, or a child day care facility.

(C) The product name, manufacturer's name, the United States Environmental Protection Agency's product registration number, and the amount used, including the unit of measurement.

(D) The date, time, and location of application.

(2) The report submitted pursuant to paragraph (1) shall not include pesticide use reported pursuant to subdivision (c) of Section 13186 of the Food and Agricultural Code.

SEC. 5. Section 17611.5 is added to the Education Code, to read:

17611.5. (a) The school designee may develop and post on the Internet Web site of the schoolsite, or, if the schoolsite does not maintain an Internet Web site, the school district, an integrated pest management plan for the schoolsite or the school district. If neither the schoolsite nor the school district maintains an Internet Web site, the school designee may include the integrated pest management plan with the annual notification sent to staff and parents or guardians of pupils enrolled at the schoolsite pursuant to Section 17612. The integrated pest management plan shall include the name of the school designee or IPM coordinator, include the pesticides expected to be applied at the schoolsite by schoolsite or school district employees and hired pest control applicators, and include a date when the plan shall be reviewed and, if necessary, updated.

(b) If a schoolsite chooses to use a pesticide not included within Section 17610.5, the school designee shall post on the Internet Web site of the schoolsite, or, if the schoolsite does not maintain an Internet Web site, the school district, an integrated pest management plan for the schoolsite or the school district. If neither the schoolsite nor the school district maintains an Internet Web site, the school designee shall include the integrated pest management plan with the annual notification sent to staff and parents or guardians of pupils enrolled at the schoolsite pursuant to Section 17612. The integrated pest management plan shall include the name of the school designee or IPM coordinator, include the pesticides applied at the schoolsite by schoolsite or school district employees and hired pest control applicators, and include a date when the plan shall be reviewed and, if necessary, updated.

(c) Nothing in this section shall limit or otherwise change the requirements of Section 17612.

SEC. 6. Section 17612 of the Education Code is amended to read:

17612. (a) The school designee shall annually provide to all staff and parents or guardians of pupils enrolled at a schoolsite a written notification of the name of all pesticide products expected to be applied at the schoolsite during the upcoming year. The notification shall identify the active ingredient or ingredients in each pesticide product. The notice shall also contain the Internet address used to access information on pesticides and pesticide use reduction developed by the Department of Pesticide Regulation pursuant to Section 13184 of the Food and Agricultural Code, the Internet address where the schoolsite integrated pest management plan may be found if the schoolsite has posted the plan, and may contain other information deemed necessary by the school designee. The notice shall also inform staff and parents and guardians of pupils enrolled at a schoolsite that they may view a copy of the integrated pest management plan in the schoolsite office. No other written notification of pesticide applications shall be required by this act except as follows:

(1) In the written notification provided pursuant to this subdivision, the school designee shall provide the opportunity for recipients to register with the schoolsite if they wish to receive notification of individual pesticide applications at the schoolsite. Persons who register for notification shall be notified of individual pesticide applications at least 72 hours before the application. The notice shall include the product name, the active ingredient or ingredients in the product, and the intended date of application.

(2) If a pesticide product not included in the annual notification is subsequently intended for use at the schoolsite, the school designee shall, consistent with this subdivision and at least 72 hours before application, provide written notification of its intended use.

(b) The school designee shall make every effort to meet the requirements of this section in the least costly manner. Annual notification by a school district to parents and guardians shall be provided pursuant to Section 48980.3. Any other notification shall, to the extent feasible and consistent with the act adding this article, be included as part of any other written communication provided to individual parents or guardians. This section shall not require the school designee to issue the notice through first-class mail, unless he or she determines that no other method is feasible.

(c) Pest control measures taken during an emergency condition as defined in Section 17609 shall not be subject to the requirements of paragraphs (1) and (2) of subdivision (a). However, the school designee or property owner shall make every effort to provide the required notification for an application of a pesticide under emergency conditions.

(d) The school designee shall post each area of the schoolsite where pesticides will be applied with a warning sign. The warning sign shall prominently display the term "Warning/Pesticide Treated Area" and shall include the product name, manufacturer's name, the United States Environmental Protection Agency's product registration number, intended date and areas of application, and reason for the pesticide application. The warning sign shall be visible to all persons entering the treated area and shall be posted 24 hours before the application and remain posted until 72 hours after the application. In case of a pest control emergency, the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application.

(e) Subdivisions (a) and (d) shall not apply to schools operated by the Division of Juvenile Justice. The school administrator of a school operated by the Division of Juvenile Justice shall notify the chief medical officer of that facility at least 72 hours before the application of pesticides. The chief medical officer shall take any steps necessary to protect the health of pupils in that facility.

(f) This section and Section 17611 shall not apply to activities undertaken at a school by participants in the state program of agricultural vocational education,

pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28 of Division 4 of Title 2, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. This subdivision does not relieve schools participating in the state program of agricultural vocational education of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(g) Sections 17610 to 17614, inclusive, shall not apply to family day care homes or property owners of family day care homes, as defined in Section 1596.78 of the Health and Safety Code, or their agents who personally apply any pesticides.

(h) If pesticide is applied by a property owner or his or her agent, or by a pest control operator, failure to provide notice pursuant to subdivision (b) of Section 17610 or subdivision (d) of Section 13186 of the Food and Agricultural Code shall relieve a privately operated child day care facility from the requirements of this section.

SEC. 7. Section 17614 is added to the Education Code, to read:

17614. (a) Commencing July 1, 2016, and except as provided in subdivision (b), the school designee, and any person, including, but not necessarily limited to, a schoolsite or school district employee, who, in the course of his or her work, intends to apply a pesticide at a schoolsite subject to this article, shall annually complete a training course provided by the Department of Pesticide Regulation or an agent authorized by the Department of Pesticide Regulation. The training course shall include integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health.

(b) (1) Commencing July 1, 2016, any person hired to apply a pesticide at a schoolsite subject to this article shall complete at least a one-hour training course in integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health before applying pesticides at a schoolsite subject to this article and during each subsequent licensing period in which the person applies a pesticide at a schoolsite subject to this article. The training course may be applied to his or her professional continuing education requirement required by the Structural Pest Control Board or the Department of Pesticide Regulation.

(2) The training course required by paragraph (1) shall be developed by the Department of Pesticide Regulation and may also be developed by a provider approved by the Structural Pest Control Board if the training course has been approved by the Department of Pesticide Regulation.

(3) The Department of Pesticide Regulation shall ensure that the training course it develops or approves pursuant to paragraph (2) meets the requirements for continuing education credit required by the Structural Pest Control Board and the Department of Pesticide Regulation.

SEC. 8. Section 12996 of the Food and Agricultural Code is amended to read:

12996. (a) Every person who violates any provision of this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or by imprisonment of not more than six months, or by both the fine and imprisonment. Upon a second or subsequent conviction of the same provision of this division relating to pesticides, a person shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by imprisonment of not more than six months or by both the fine and imprisonment. Each violation constitutes a separate offense.

(b) Notwithstanding the penalties prescribed in subdivision (a), if the offense involves an intentional or negligent violation that created or reasonably could have created a hazard to human health or the environment, the convicted person shall be punished by imprisonment in a county jail not exceeding one year or in the state prison or by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000), or by both the fine and imprisonment.

(c) This section does not apply to violations of Chapter 7.5 (commencing with Section 15300) or Section 13186.5.

SEC. 9. Section 12999.4 of the Food and Agricultural Code is amended to read:

12999.4. (a) In lieu of civil prosecution by the director, the director may levy a civil penalty against a person violating Sections 12115, 12116, 12671, 12992, 12993, Chapter 10 (commencing with Section 12400) of Division 6, Article 4.5 (commencing with Section 12841), Section 13186.5, Chapter 7.5 (commencing with Section 15300), or the regulations adopted pursuant to those provisions, of not more than five thousand dollars ($5,000) for each violation.

(b) Before a civil penalty is levied, the person charged with the violation shall be given a written notice of the proposed action, including the nature of the violation and the amount of the proposed penalty, and shall have the right to request a hearing within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. Before the hearing, the person shall be given an opportunity to review the director's evidence. At the hearing, the person shall be given the opportunity to present evidence on his or her own behalf. If a hearing is not timely requested, the director may take the action proposed without a hearing.

(c) If the person against whom the director levied a civil penalty requested and appeared at a hearing, the person may seek review of the director's decision within 30 days of the date 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.

(e) Any money recovered under this section shall be paid into the Department of Pesticide Regulation Fund for use by the department, upon appropriation, in administering this division and Division 6 (commencing with Section 11401).

SEC. 10. Section 13181 of the Food and Agricultural Code is amended to read:

13181. (a) Notwithstanding any other law, for purposes of this article, "integrated pest management" means a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment, are used only after careful monitoring indicates they are needed according to preestablished guidelines and treatment thresholds. This definition shall apply only to integrated pest management at school facilities and child day care facilities.

(b) For purposes of this article "IPM coordinator" has the same meaning as school designee or IPM coordinator, as those terms are defined in subdivision (e) of Section 17609 of the Education Code.

SEC. 11. Section 13182 of the Food and Agricultural Code is amended to read:

13182. It is the policy of the state that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites and that the state, in order to reduce children's exposure to toxic pesticides, shall take the necessary steps, pursuant to this article, to facilitate the adoption of effective least toxic pest management practices at schoolsites. It is the intent of the Legislature that all school personnel involved in the application of pesticides at a schoolsite be trained in integrated pest management and the safe use of

pesticides in relation to the unique nature of schoolsites and children's health.

SEC. 12. Section 13183 of the Food and Agricultural Code is amended to read:

13183. (a) The department shall promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites, excluding privately operated child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, that voluntarily choose to do so. For these schoolsites, the department shall do all of the following:

(1) Establish an integrated pest management program for schoolsites consistent with Section 13181. In establishing the program, the department shall:

(A) Develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite.

(B) Develop a model program guidebook that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. At a minimum, this guidebook shall include guidance on all of the following:

(i) Adopting an IPM policy.

(ii) Selecting and training an IPM coordinator.

(iii) Identifying and monitoring pest populations and damage.

(iv) Establishing a community-based school district advisory committee.

(v) Developing a pest management plan for making least-hazardous pest control choices.

(vi) Contracting for integrated pest management services.

(vii) Training and licensing opportunities.

(viii) Establishing a community-based right-to-know standard for notification and posting of pesticide applications.

(ix) Recordkeeping and program review.

(C) Develop a template for an integrated pest management plan to be used by schoolsites or school districts. The template shall outline a strategy for integrated pest management as described in Section 13181.

(2) Make the model program guidebook available to schoolsites and establish a process for systematically updating the guidebook and supporting documentation.

(b) The department shall promote and facilitate the voluntary adoption of

integrated pest management programs at child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, through the following:

(1) Modifying the department's existing integrated pest management program for schoolsites as described in subdivision (a) of Section 13183 for the child day care setting.

(2) Creating or modifying existing educational and informational materials on integrated pest management for the child day care setting.

(3) Making the materials available to child day care facilities and establishing a process for systematically updating them.

(c) The department shall develop a training course to train any person who intends to apply pesticides on a schoolsite. The training course shall cover integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health. The training course shall be provided by the department or an agent authorized by the department.

SEC. 13. Section 13186.5 is added to the Food and Agricultural Code, to read:

13186.5. (a) Commencing July 1, 2016, and except as provided in subdivision (b), a school designee, as defined in Section 17609 of the Education Code, and any person, including, but not necessarily limited to, a schoolsite or district employee, who, in the course of his or her work, intends to apply a pesticide at a schoolsite subject to this article, shall annually complete a training course provided by the department or an agent authorized by the department. The training course shall include integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health.

(b) (1) Commencing July 1, 2016, any person hired to apply a pesticide at a schoolsite subject to this article shall complete at least a one-hour training course in integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health before applying pesticides at a schoolsite subject to this article and during each subsequent licensing period in which the person applies a pesticide at a schoolsite subject to this article. The training course may be applied to his or her professional continuing education requirement required by the Structural Pest Control Board or the department.

(2) The training course required by paragraph (1) shall be developed by the department and may also be developed by a provider approved by the Structural Pest Control Board if the training course has been approved by the department.

(3) The department shall ensure that the training course it develops or approves pursuant to paragraph (2) meets the requirements for continuing education credit required by the Structural Pest Control Board and the department.

SEC. 14. Section 13187 of the Food and Agricultural Code is amended to read:

13187. Sections 13186 and 13186.5 shall not apply to any agency signatory to a cooperative agreement with the State Department of Public Health pursuant to Section 116180 of the Health and Safety Code.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

California LEGISLATIVE INFORMATION

AB-1685 Structural pest control operators: fees. (2013-2014)

Assembly Bill No. 1685

CHAPTER 304

An act to amend Sections 8538, 8564.5, 8593, and 8674 of the Business and Professions Code, relating to business.

[Approved by Governor September 09, 2014. Filed with Secretary of State September 09, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1685, Williams. Structural pest control operators: fees.

Existing law provides for the regulation of registered structural pest control companies by the Structural Pest Control Board. Existing law requires a registered structural pest control company to provide a specified written notice to the owner, or owner's agent, and the tenant of the premises where pest control work is to be done. Existing law authorizes the notice to be given by first-class mail, posting in a conspicuous place on the real property, or personal mail.

This bill would permit notice to be given by electronic mail, in addition to the currently authorized methods, if an electronic mail address has been provided.

Existing law authorizes an individual who is 18 years of age or older to apply for a license as an applicator. Existing law requires the board to ascertain the knowledge of the applicant to apply certain classes of chemicals by means of a written examination and authorizes the board to charge a fee for the examination in an amount sufficient to cover the reasonable cost of administering the exam, not to exceed $15.

This bill would instead authorize the board to charge a fee in an amount sufficient

to cover the reasonable regulatory cost of administering the examination, not to exceed $60.

Existing law requires, as a condition of renewal of each operator's and field representative's license, that the holder submit proof of continuing education, as specified. Existing law authorizes the person, in lieu of that requirement, to take and successfully complete an examination given by the board to test his or her knowledge of development in the field of pest control since the issuance of his or her license. Existing law authorizes the board to charge a fee for the taking of an examination in each branch of pest control in an amount sufficient to cover the cost of administering the examination, but in no event to exceed $50 for each examination.

This bill would authorize the board to charge a fee for administering an examination in each branch of pest control in an amount sufficient to cover the reasonable regulatory cost of administering the examination and would remove the $50 fee limit.

Existing law provides a comprehensive scheme for the licensure and regulation of structural pest control operators which, among other things, sets forth a fee schedule for licensure and registration of those companies and their personnel who are engaged in structural pest control work.

This bill would increase specified fees paid by structural pest control operators.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8538 of the Business and Professions Code is amended to read:

8538. (a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California

Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately." (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions—the County Health Department (telephone number); for Application Information—the County Agricultural Commissioner (telephone number), and for Regulatory Information—the Structural Pest Control Board (telephone number and address)."

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice prescribed by subdivision (a) shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2 or Branch 3 registered company applications, the notice prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class or electronic mail, if an electronic mailing address has been provided.

(2) Posting in a conspicuous place on the real property.

(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth

in Section 8553.

SEC. 2. Section 8564.5 of the Business and Professions Code is amended to read:

8564.5. (a) Any individual 18 years of age or older may apply for a license as an applicator.

(b) The board shall ascertain by written examination that an applicant for a license as applicator in Branch 2 or Branch 3 has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

(c) Passage of the written examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3.

(d) The board may charge a fee for any examination required by this section in an amount sufficient to cover the reasonable regulatory cost of administering the examination, but not to exceed the amount set forth in subdivision (k) of Section 8674.

(e) Nothing in this chapter shall prohibit an applicator, authorized to apply any chemical substance in Branch 2 or Branch 3 before January 1, 1995, from acting as an applicator pursuant to that authorization. Upon expiration of the authorization, an applicator's license shall be required.

SEC. 3. Section 8593 of the Business and Professions Code is amended to read:

8593. (a) The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

(b) The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

(c) The board may charge a fee for the taking of an examination in each branch of pest control pursuant to this section in an amount sufficient to cover the reasonable regulatory cost of administering each examination.

SEC. 4. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than one hundred dollars ($100).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120).

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative's examination fee of not more than seventy-five dollars ($75).

(i) A field representative's license fee of not more than forty-five dollars ($45).

(j) A field representative's license renewal fee of not more than forty-five dollars ($45).

(k) An applicator's examination fee of not more than sixty dollars ($60).

(l) An applicator's license fee of not more than fifty dollars ($50).

(m) An applicator's license renewal fee of not more than fifty dollars ($50).

(n) An activity form fee, per property address, of not more than three dollars ($3).

(o) A fee for certifying a copy of an activity form of not more than three dollars ($3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(r) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars ($2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the

criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(5) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
STRUCTURAL PEST CONTROL BOARD – ENFORCEMENT UNIT
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MEMORANDUM

DATE	September 30, 2014
TO	Board Members
FROM	Robert Lucas Assistant Executive Officer
SUBJECT	**Agenda Item VIII – Possible Amendment to Business and Professions Code Section 8506.2**

Attached is staffs' opening recommendation identifying the amendment of Business and Professions Code Section 8506.2. If necessary, Board Staff will submit final recommendation in an upcoming Board meeting for discussion and possible action.

The proposed change is intended to explain supervision requirements in concise, plain language to appropriately educate those licensees who are unaware of the requirements needed to operate a pest control business. This provision also is intended to assure that qualifying managers hold a reasonable level of accountability in the performance of their duties.

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 ~~available~~ physically present on-site for a minimum of twenty-four (24) hours per month to supervise and assist the company's employees. These hours shall be documented on a form prescribed by the board. Upon request, the completed form(s) shall be provided or made available to the board.

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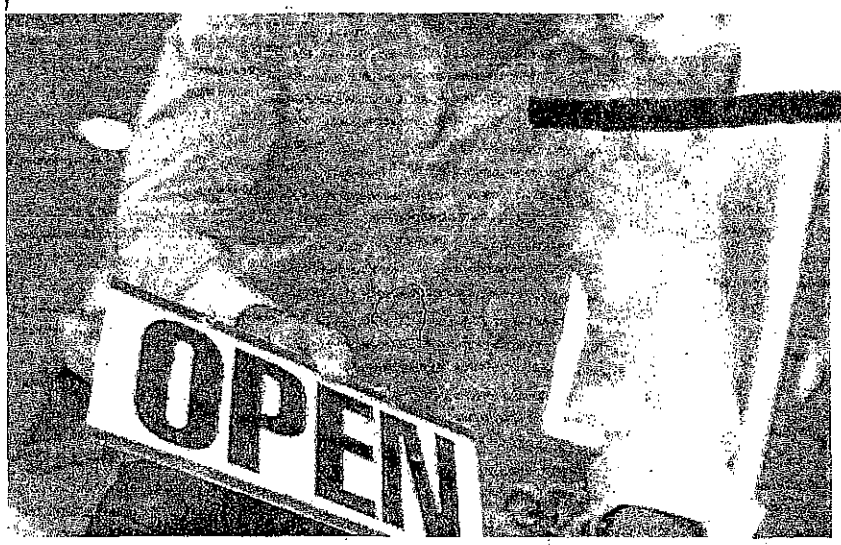

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What We Do: We help new and existing pest control companies obtain the licensing they need to legally operate. Most state's have a two-tier licensing system with the upper level license requiring multiple years of experience to obtain. If you lack the upper level license in your state we can match you up with a pest control professional who will act as your qualifying manager.

How it Works: The license holder will agree to work with your company for a set fee. Once you and the license holder agree on terms you simply let your pest control state agency know who your qualifying manager is. The license holder will be responsible to make sure your company is keeping all of the rules and regulations specific to your state.

How Much Does It Cost: Each license holder has his or her own fee structure. We recommend you find a license holder who does not plan on coming into the office each day. This will enable you to negotiate a lower price.

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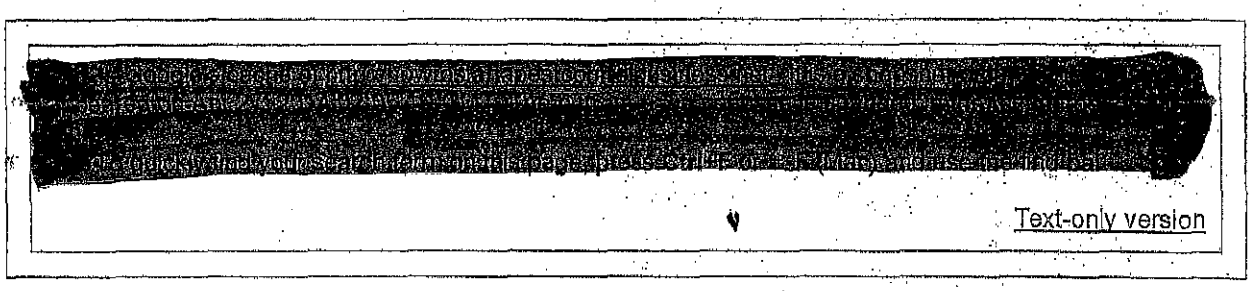

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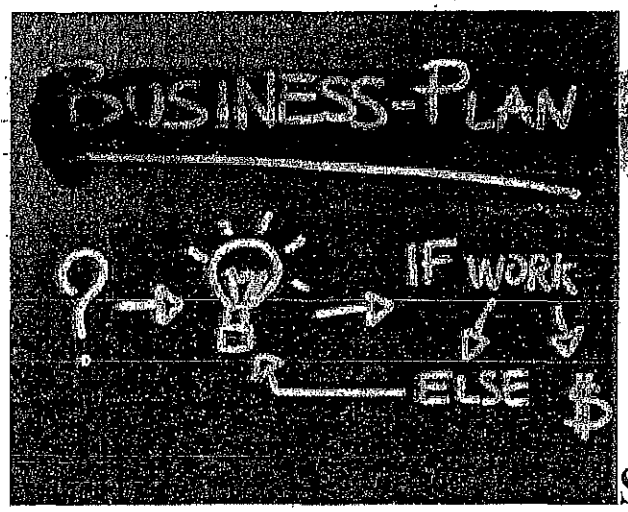
How To Start A Pest Control Business

tips and tricks for how to start a pest control business

How To Start A Pest Control Business–An Insiders Secret

If you are looking for information about *how to start a pest control business* then you have come to the right place. Pest control businesses can be very lucrative, and they have a built in business model that has been tried and proven. Anyone that asks the questions "how to start a pest control business" should first make sure they can work around the number one obstacle that most new owners face: licensing.



Starting A Pest Control Business Step 1: A Website

One of the first steps you need to do is buy or build a website. How many times have you gone to search for a business or service and if they aren't on the web, you select another business you found? Or maybe you are looking for their website and can't find them – you click on someone else's website and give them your business. We'll that's the last thing you want to happen to you. You want people to take you seriously. We all take people more seriously when they have a website.

The same goes for a pest control company. Having pest control websites increases your visibility to consumers looking to use pest control services. Your pest control website should include a list of your services, your experience, and you can share your promise and guarantee of work, etc. But if you don't have a pest control website, you can't tell people about you and your business and then you will miss out on revenue. See, people are search all the time for pest control services, in fact their are tons of pest control companies searching for pest control websites. And if you aren't there to capture the business with a pest control website, other pest control companies will capture the leads and then gain them as customers.

Now if you are looking to keep costs down you can look into creating your website on your own by finding a pest control website template. You then go in and put all your own images in and content, adjust as you like, etc. But be warned...building your own pest control website template is cost efficient but if you are not tech savy it may be a little challenging and can take days to complete. There is a company that helps pest control businesses get a pest control website for relatively cheap. They focus on giving pest control businesses all that they need and nothing more, to help keep costs down. This company is called [redacted]. Now, if you are looking for a custom pest control website, this can cost you thousands of dollars. We recommend finding a website for much less than that so that you can keep your costs down and spend your money else

where to capture more leads and grow your business. If you are looking to get a custom website (again, we don't recommend this unless your business is absolutely killing it and you have extra money to spare), a good company is [redacted]

But if you are looking to keep costs down and get a fully functional, cost efficient website, we recommend [redacted], which is a company that tailors the work specifically to the pest control industry and primarily builds pest control websites. We recommend going to [redacted] first to see if they can give you what you need at a fraction of the cost.

Second Step: Licensing

When I first discovered how to start a pest control business I learned that each state has it's own set of unique laws and regulations, but most of the states require someone with an upper-level pest control license to either be the direct owner of the company or be employed by the company. Generally this form of license will be referred to as the "operator" or "qualifying manager" or "certified applicator." There are many other names given to it, but it serves essentially the same purpose in each state: it gives the new pest control business the ability to legally operate, and gaurantees to the state that someone with the proper certification is watching over the pest control business.

When someone asks me "how to start a pest control business," the first thing I do is educate them on the licensing requirements because this is generally the biggest obstacle. Most of the states require two years of verifiable pest control experience to even be able to test for the upper-level license. There is a way to get around this though. [redacted]

How To Start A Pest Control Business WITHOUT A LICENSE

[redacted]

Starting a pest control business without a license requires you to hire someone who has the needed license. This generally stops would-be entrepreneurs because the cost of hiring a full-time employee from day one is out of the question, but there is another way (continue reading if you are serious about learning how to start a pest control business).

While you are first starting a pest control business you can hire someone to be your "qualifying manager" and then work under their license, but ask them not to come into the office each day. Ask them to be "part time." This way you only have to pay them a small monthly fee as opposed to thousands of dollars a month. In fact, there is a company I have used in the past that specializes in providing license holders (qualifying managers) to new companies. Their rates are extremely reasonable and they have a network of licensed individuals in every state. Here is the link to check them out: [redacted] They essentially specialize in helping people that want to learn how to start a pest control business.

How To Start A Pest Control Company: Step 3

Once you get your licensing situation figured out you now need to move into the second phase of starting a pest control business: financing. You can pursue professional lending avenues such as commercial banks–which might issue you a small business loan. You can dip into your own savings, you can borrow from friends and family, or you can even put it on a credit card (this should be your absolute last resort). Starting a pest control business is relatively low risk, and the banks know this, so securing a loan through them is a very real possibility.

The costs associated with starting a pest control business fluctuate depending on the area of the country, but generally you can get a used two-door truck for $7,500, and old power sprayer for under $1,000, and some inventory (pesticides) for $500. I've heard

[redacted]

of guys starting a pest control business for under ten grande and I think that is a pretty good goal. Stay lean until you start getting customers.

If you are learning **how to start a pest control business** and you are new to pest control then make sure to pay attention to the next section--pricing.

Pricing Structure For A New Pest Control Company

The most effective pricing strategy for a starting a pest control business (or existing one for that matter) is to set up customers on an annual service that continues to renew until they cancel. Stay away from "one-time" treatments because they just don't generate enough repeat customers. It costs ten times as much money to find a new customer as opposed to retaining an old one.

Most people that want to learn how to start a pest control business think that they will spray people's homes once a month. This is a bad idea. The reason why is because home owners like to look at the total yearly cost of their pest control service. Most will pay around $450 for annual pest control. If you are spraying monthly this means each time you spray you gross $37.50.

Instead, if you spray only bi-monthly, and still charge the home owner $450 for the entire year, you earn $75 dollars each time you spray (because you spray only half as much). But there is an even better way: quarterly services. If you spray only once every three months, you can get away with charging $112 dollars for each visit, and the homeowner still only pays $450 for the entire year.

In order to pull this off you have to stress the yearly price, and offer to come inbetween your quarterly visits for FREE if any of their bugs return. People feel good about this and will sign up for quarterly. The most profitable pest control companies in America do quarterly services. Many people that are starting a pest control business do NOT do this strategy and it comes back to bite them when they get low on cash.

Conclusions For How To Start A Pest Control Business

Learning how to start a pest control business is pretty easy. The financing and pricing of your services is fairly straight forward, the biggest problem most new business owners face is definitely the licensing issue. But remember that [redacted] can help you solve that problem. So don't procrastinate, get started with your new company now! Nothing beats working for yourself, I've been doing it for eight years and I absolutely love the freedom, flexibility, and the money.

[redacted]

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Structural Pest Control Board
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MEMORANDUM

DATE	October 2, 2014
TO	Board Members
FROM	Susan Saylor Executive Officer
SUBJECT	**Agenda Item X – Annual Review of Policies and Procedures**

The Policies and Procedures are attached for your annual review. There are two recommended changes to No. G – 3 Board Committees, the recommendation is to delete "Board members are ad hoc members of all Board committees" legal counsel has indicated that this is incorrect. The second minor change is to delete the reference to Business and Professions Code section 425, that code section no longer exist.

Also included is a new Policy and Procedure, No. G – 9 which provides procedures regarding Mail Votes.

STRUCTURAL PEST CONTROL BOARD

PROCEDURES

(Reference to Registrar and Deputy/Assistant Registrar is Synonymous)

Revised 10/23/2013

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GENERAL

NO. G-1

SUBJECT: REVIEW OF PROCEDURES

PURPOSE: To assure procedures are current

POLICY

A review of Board Procedures shall be made at the annual meeting.

Reference: Section 108, Business and Professions Code

History: Adopted 4/20/79
Amended 6/23/00

NO. G-2

SUBJECT: TRAVEL

PURPOSE: To establish a standard procedure for approval of Board Member and advisory committee member travel

POLICY

Board Member

Members of the Board are to receive prior approval from the President of the Board and immediately submit notice thereof to the Registrar before attending any meetings, other than Board meetings and Board committee meetings, at state expense.

Advisory Committee Member

Advisory committee members must receive prior approval from the President of the Board regarding expenditures necessary to carry out their duties at state expense. Advisory committee members are required to take the lowest cost transportation and coordinate their travel to minimize expense.

Reference: Sections 103 and 8526, Business and Professions Code

History: Adopted 4/20/79
Amended 10/22/93

NO. G-3

SUBJECT: BOARD COMMITTEES

PURPOSE: To establish guidelines for board committees

POLICY

Technical Advisory Committee members' terms expire when the appointing president's term expires.

Ad hoc committees will be established by the Board as needed. Members and the chairperson will be appointed by the President.

No action can be taken unless a quorum of a committee is present. A majority of the members shall constitute a quorum.

Reference: Sections 22, and 477, Business and Professions Code

History: Adopted 2/19/88
Amended 11/6/92
Amended 10/22/93
Amended 1/10/03
Amended 7/18/03
Amended 1/15/05

NO. G-4

SUBJECT: ELECTION OF OFFICERS

PURPOSE: Identify when elections are held and to assure equal representation

POLICY

Elections for the offices of president and vice president shall be conducted at the October board meeting. President and vice president shall assume duties at the board meeting following the annual October meeting. At least one of the offices of president and vice president must be held by a public member.

Reference: Sections 8521 and 8522, Business and Professions Code

History: Adopted 2/19/88
Repealed 10/12/90
Adopted 10/21/94
Amended 1/10/03
Amended 10/20/06

NO. G-5

SUBJECT: BOARD MEETING MINUTES

PURPOSE: To assure board meeting minutes are completed promptly.

POLICY

Draft minutes of Structural Pest Control Board Meetings will be completed and distributed to board members within 30 days after a board meeting.

Minutes of the Structural Pest Control Board Meetings will be distributed to individuals on the mailing list within 10 days after approval by the Board.

Reference: 8531.5

History: Adopted 10/12/90
Amended 10/22/93
Amended 10/4/96
Amended 11/18/08

NO. G-6

SUBJECT: GUIDELINES FOR ACCESS TO PUBLIC RECORDS

PURPOSE: To establish procedures to be followed when making public records available.

POLICY

Public records in the physical custody of the Structural Pest Control Board that are not exempt from disclosure will be made available for inspection or copying as follows:

1. Any person may review public records of the Board during weekdays and hours that the office is regularly open for business. Public records will be available for inspection only at the office or location where they are regularly and routinely maintained.

2. Requests for inspection or copying of public records:

   a) should be addressed to, or directed to, the board.

3. The board will provide the following to assist a member of the public to make a focused and effective request that reasonably describes identifiable records or records to the extent it is reasonable under the circumstances:

   a) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

   b) Describe the information technology and physical location in which the records exist.

   c) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

4. The requestor will be notified in ten (10) days whether the board has disclosable public records. Where unusual circumstances exist as specific in Government Code section 6253(c), the agency may, by written notice to the requester, extend the time for response not to exceed fourteen (14) additional days.

5. If a request is made for a record that is stored in an electronic format, the board will comply to the extent required under Government Code Section 6253.9.

6. The board may refuse to disclose any records that are exempt from disclosure under the Public Records Act (PRA).

7. Any denials of PRA requests for consumer complaints shall be subject to Legal Office review prior to responding to the requestor.

8. Functions of the board will not be suspended to permit, and public records will not be made available for, inspection during periods in which such records are reasonably required by board personnel in the performance of their duties. Special arrangements shall be made in advance for the inspection or copying of voluminous records.

9. Public records in the possession of the board may be inspected only in the presence of board personnel, except in those cases where the executive officer or his or her designee, determines otherwise. Physical inspection of such records will be permitted at places within the board office as determined by the executive officer.

10. The board will provide copies of any requested public records not exempt from disclosure upon payment of the following fees:

    - Requested public records will be produced at a charge of thirty-five (35) cents per page plus the actual costs of the staff time for retrieving and duplicating the document(s). The cost of staff time will be computed in accordance with the guidelines contained in Section 8740 of the State Administrative Manual. However, these fees may be waived if the costs of retrieval and duplication are less than the cost of processing the payment.

    - Requests by an individual for copies of records pertaining to that individual (e.g., licensee files, personnel files, etc.) will be provided to that individual at a cost of ten (10) cents per page. In these cases, the cost of staff time for retrieving and duplicating the document(s) shall not be charged (Civil Code sec. 1798.33). However, these fees may be waived if the costs of duplication are less than the cost of processing the payment.

    - Lists of licensees will be provided in electronic, paper, or mailing label form at a charge sufficient to recover the estimated costs of providing the data. Further information and a list of charges may be obtained by contacting the Office of Information Services, Public Information Unit at the following website address: www.dca.ca.gov/consumer/public_info/ or call (916) 574-8150.

    - As provided in Business and Professions Code sec. 163, a charge of $2.00 will be made to certify any document. This fee is in addition to copying costs.

11. A person who inspects records of the board shall not destroy, mutilate, deface, alter or remove any such records or records from the location designated for inspection, but shall physically return these in the same condition as when received, upon either the completion of the inspection or upon verbal request of departmental or agency personnel.

12. In the event that any portion of these guidelines may be deemed at any time to conflict with any law or regulation, the law or regulation shall prevail.

13. A copy of these guidelines shall be posted in a conspicuous public place in the office of the board. A copy of these guidelines shall be made available free of charge to any person requesting them.

Reference: Government Code, California Public Records Act

History: Adopted 9/5/91
Amended 10/4/96
Amended 10/11/02
Amended 10/12/07
Amended 4/28/11
Amended 10/5/11

NO. G-7

SUBJECT: REVIEW OF STRATEGIC PLAN

PURPOSE: To assure plan is being followed.

POLICY

A review of the status of action taken in compliance with the Strategic Plan shall be made at the annual meeting.

Reference:

History: Adopted 6/23/00

NO. G-8

SUBJECT: DUTIES OF THE PRESIDENT AND VICE PRESIDENT

PURPOSE: Document duties for board members elected to office.

POLICY

President

1. The president shall chair all meetings of the board.

2. The president or any three members of the board may call meetings at any time.

3. If a member is unable to attend, he / she must contact the board president and the registrar / executive officer to advise them of his / her inability to attend.

4. The president will be guided by, but not bound by Robert's Rules of Order when conducting the meetings, except to the extent where it conflicts with state law (Bagley-Keene Open Meeting Act).

5. The president shall establish standing and special committees as the board deems necessary or appropriate. The president shall make the appointment of members to these committees.

6. The president will represent the board in all communications relating to any board action or policy. The president may designate another board member to represent him / her if necessary.

7. The president will approve or disapprove travel by members of the board, not including regularly scheduled board meetings, such approval not to be unreasonably withheld.

8. The president shall have the responsibilities usually vested in or customarily incident to the office of president and otherwise prescribed by law.

9. The president elect shall serve as the board delegate to ASPCRO; if he or she cannot attend, the president, or his or her designee, shall serve as the board delegate to ASPCRO.

10. The president shall supervise the activities of the registrar / executive officer.

11. In intervals between meetings of the board, the president shall have authority to make decisions respecting emergency or urgent matters.

12. The president shall sign decisions and rulings of the board on behalf of the board, and minutes after approved by the board.

13. The president shall serve as liaison between the board and the Deputy Director of Board Support.

Vice President

1. If the president is temporarily unable or unwilling to perform his or her duties as president, the vice president shall perform all of the duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president.

Reference: Section 8523, Business and Professions Code

History: Adopted 1/10/03
Amended 7/18/03
Amended 1/14/05
Amended 11/18/08

NO. G-9

SUBJECT: MAIL VOTES

PURPOSE: To provide policies for Board members voting by mail.

Mail Votes

The Board reviews and votes on disciplinary cases on a continuous basis through mail vote. Proposed Decisions and Stipulations are sent to the Board members for their review and vote. Board members have fourteen (14) days to review the Proposed Decisions and Stipulations and submit their vote. Each Board member may vote to either:

- Adopt the Proposed Decision or Stipulation;
- Reject the Proposed Decision or Stipulation; or
- Hold for Proposed Decision or Stipulation for discussion at the next closed session.

Any Proposed Decision or Stipulation received by Board staff within thirty (30) days of a Board meeting will be held for closed session. At least four (4) votes are required to adopt or reject a Proposed Decision or Stipulation.

LICENSING

and

EXAMINATION

NO. L-1

SUBJECT: UNAUTHORIZED ASSISTANCE

PURPOSE: To establish guidelines for examination proctors when cheating occurs.

POLICY

An applicant who gives or receives unauthorized assistance during an examination shall be dismissed from the examination and his/her markings or results shall be void and such applicant's examination fee shall be forfeited.

Reference: Section 496, Business and Professions Code

History: Adopted 11/12/82
Amended 10/12/85

NO. L-2

SUBJECT: POSTPONEMENT OF EXAMINATION

PURPOSE: To establish unacceptable reasons for granting a postponement of examination.

POLICY

Lack of preparation is not considered a valid reason for postponement as provided in section 1941 of the Rules and Regulations. Such request will be denied and the fee forfeited.

Reference: Section 8560, Business and Professions Code
Section 1941, California Code of Regulations

History: Adopted 10/29/83

NO. L-3

REPEALED

SUBJECT: FEES

PURPOSE: To establish guidelines to assure that licenses/certificates and renewals are not issued until fees are paid.

POLICY

No registration certificate or license or renewal for a license shall be issued or renewed where fees tendered is in the form of a personal check until the check has cleared. Personal checks retuned unpaid for any reason shall be treated in the same way as though no fee at all had been tendered.

Reference: Sections 8562, 8564 and 8590, Business and Professions Code
Sections 1936 and 1936.1, California Code of Regulations

History: Adopted 11/12/82
Amended 10/25/96
Repealed 10/4/96

NO. L-4

SUBJECT: APPLICATOR EXAMINATION

PURPOSE: To establish guidelines for the use, control and security of applicator examinations.

REPEALED

POLICY

General:

1. Examinations and answer keys must be kept in a locked cabinet, closet, drawer, or similar enclosed place and not removed until used.

2. Examination cannot be reproduced in any form.

3. A log provided by the Board of each examination given must be maintained in duplicate and a copy accounting for the previous order sent to the Board with the next order or upon request.

4. The current examination must always be used. When examinations are changed, registered companies will be notified by the Board and unused examinations must be returned to the Board to be exchanged for the current examination.

5. After completion of an examination, whether passed or failed, it must be returned immediately to the Board.

6. The owner or qualifying manager may act as proctor or designate a proctor to administer the examination. Even though the owner or qualifying manager delegates this authority, he/she remains responsible for the integrity of administration of the examination.

7. A new examination booklet must be used each time an examination is given.

8. If an examinee fails the examination, he/she may repeat the examination but a new examination booklet must be used.

9. The passing grade is 70 correct answers.

10. If an examination is lost, stolen or damaged, the Board must be notified immediately.

11. Applicator examinations are not transferable from one company to another.

Administration of Examination:

1. Proctor must identify the examinee by driver's license or other photo identification.

2. Examination must be given in a quiet place.

3. Examination must be uninterrupted.

4. Examination must be taken at one sitting.

5. Examinee must NOT write in the examination booklets.

6. Examinee can take short breaks but they must surrender examination booklets to the proctor and they cannot talk to anyone or consult any aids. If more than one examinee is taking the examination at one time, only one at a time may take a break.

7. Proctor must be present during the entire examination.

8. No resource materials or display can be used.

9. No assistance can be given.

10. Proctor must certify on the cover of the examination that it was administered in accordance with the Board instructions.

11. Examinee must certify on the cover of the examination that the examination was taken in accordance with Board instructions and agree to an audit by re-examination if selected by the Board.

12. Proctor grades the examination.

13. Proctor returns all completed booklets and answer sheets, whether passed or failed, to the Board.

14. If the examinee passes, the temporary certificate on the cover of the examination must be signed, dated, detached and retained by the applicator. The permanent certificate will be sent to the applicator within 30 days of receipt of the examination by the Board.

Reference: Sections 8551.5 and 8564.5, Business and Professions Code.

History: Adopted 1980
Amended 10/6/84
Amended 10/25/86
Repealed 1/1/91

REPEALED

NO. L-5

SUBJECT: INCOMPLETE EXAMINATION APPLICATIONS

PURPOSE: To establish a standard time period for retaining incomplete application for examination.

POLICY

An incomplete application for examination will be purged and such applicant's examination fee shall be forfeited six months after the last contact made with the applicant requesting completion of the examination application.

Reference: Section 8562 and 8564, Business and Professions Code
Section 1936, California Code of Regulations

History: Adopted 10/13/89

NO. L-6

SUBJECT: CONTINUING EDUCATION EXEMPTIONS FOR ARMED SERVICES PERSONNEL

PURPOSE: To provide for the temporary waiver of continuing education renewal requirements for licensees servicing during any call for action.

POLICY

Any licensee who permitted his/her license to expire while serving in any branch of the armed services of the United States during any call for action, may have one year from the date of discharge from the armed services or return to inactive status to earn the required continuing education hours necessary to reinstate his/her license; provided the license was valid at the time the licensee was called to action, and the application for reinstatement is accompanied by an affidavit showing the date of discharge from the armed services or return to inactive status.

REPEALED

Reference: Sections 114, 8590 and 8593, Business and Professions Code
Sections 1950, California Code of Regulations

History: Adopted 4/5/91
Amended 9/5/91
Repealed 10/4/96
Readopted 1/18/02
Repealed 4/22/10

ENFORCEMENT

NO. E-1

SUBJECT: COMPLAINT PROCESS

PURPOSE: To establish guidelines and procedures for accepting and processing complaints against registered companies/licensees.

POLICY

Complaint against a licensee/registered company of the Structural Pest Control Board shall be filed with the Board's office.

Upon receipt of a complaint the Board will inquire as to whether the consumer has contacted the company first and made an effort to resolve the problem. Exceptions are those complaints that the Registrar feels should be investigated by the Division of Investigation or a Structural Pest Control Board Specialist because of the seriousness of the evidence of the violation or unusual and special circumstances.

A complaint will not be accepted if the statute of limitations has expired.

A complaint will not be accepted if the dispute is over the collection of money or prices charged, unless it involves section 8653.

When a complainant seeks repairs or treatment at no charge from a licensee/registered company whose termite inspection omitted reportable items which were available to the consumer in a prior report by another licensee/registered company, the complainant will be advised that: (1) the Board will not try to compel the licensee/registered company to bring the property into compliance other than issuing a proper report and (2) the Board will investigate the case to determine if the licensee/registered company is in violation and administrative action warranted.

Upon receipt of a complaint alleging a violation of the Structural Pest Control Act, a post card acknowledging the complaint or letter of rejection will be sent to the complainant within five working days.

Complaints involving possible pesticide poisoning shall be referred immediately by telephone to the local agricultural commissioner.

Consumer complaints shall be mediated by the Board unless criminal or gross violations are readily apparent. Complaints that are the result of gross, deliberate or repeated violations of the Act shall be sent to the Attorney General for disciplinary action regardless of the mitigating action of the licensee.

When a complaint is received, a letter of transmittal and copy of the complaint shall be sent to the licensee/registered company within five working days of receipt.

When a complaint is received, staff will determine if a building permit was required to complete repairs on the property, and also verify whether the permit was obtained.

The letter of transmittal shall request that the licensee/registered company respond to the complaint stating his/her position and intentions. The letter of transmittal shall inform the licensee/registered company that a response is expected within ten (10) days from receipt of the complaint. At the discretion of the Registrar, the ten (10) working days allowed for the licensee's /registered company's response may be extended for good cause, but not to exceed an additional twenty (20) working days. The initial contact letter sent to a registered company will request that building permit final papers must be provided to the Board for each repair performed when such permit is required.

If the licensee/registered company fails to respond to the transmittal letter, the consumer services representative shall try to contact the licensee/registered company before referring the complaint to a Structural Pest Control Board Specialist.

Complaints mediated by consumer services representatives shall be closed or referred to a Structural Pest Control Board Specialist within thirty (30) days after the date of the transmittal letter to the licensee/registered company. At the discretion of the Registrar, the thirty (30) days provided for settlement may be extended for good cause.

The Registrar shall verify all complaints that are resolved by the licensee/registered company.

When a case is closed by settlement or dismissal, the parties shall be notified by the Board within ten (10) days.

Effective August 13, 1999, when a request is made for copies of a complaint file(s) only those documents which are public records, such as accusation, statement of issues, citations, final decisions, documents introduced at an administrative hearing or documents which have been previously disclosed to the public will be provided. All other documents contained in the complaint file will not be disclosed pursuant to the Government Code section 6254(f). If the Board is served with a subpoena it will be given to the Executive Officer or the Assistant Executive Officer or Legal Counsel before any documents are released.

Reference: Sections 129, 8616.5, 8621 and 8622, Business and Professions Code

History:
Adopted 4/20/79
Amended 11/12/92
Amended 10/6/84
Amended 12/9/84
Amended 10/12/85
Amended 10/25/86
Amended 9/5/91
Amended 10/22/93
Amended 10/6/95
Amended 10/4/96
Amended 8/13/99
Amended 4/6/00

NO. E-2

SUBJECT: INSPECTION PROCESS

PURPOSE: To establish guidelines and procedures for processing inspections and assessing inspection fees.

POLICY

General:

Any case that involves criminal or civil activity within the jurisdiction of a district or city attorney may be referred to those agencies in addition to the Attorney General.

Structural Pest Control Board Specialists that are hired after leaving a registered company shall not be assigned to inspect complaints against that company until after two years from leaving the company.

Structural Pest Control Board Specialists shall be encouraged to obtain a Structural Pest Control Board Field Representative's License in Branch 3 or the equivalent within one year from being hired. The Board also encourages specialist to qualify in all branches.

A Structural Pest Control Board Specialist is authorized to investigate immediately a cause of death or serious injury when structural pest control is involved without first obtaining the approval of the Registrar.

When the Registrar has information which indicates that a licensee/registered company has failed to meet standards of performance or report requirements, a Structural Pest Control Board Specialist may, at the direction of the Registrar, inspect inspections or jobs completed by the licensee/registered company to determine if errors were made or if it appears that violations are deliberate or customary.

When the Registrar requests inspections by Structural Pest Control Board Specialists, such inspections are for the purpose of determining whether the Act and/or regulations have been violated. The specialist shall not give advice, legal or otherwise, when inspecting cases for the Structural Pest Control Board.

The Structural Pest Control Board Specialists when directed by the Registrar shall determine if work is completed or repairs made as specified in the complaint. The specialist may inspect the entire property for compliance with the Act. Any violations found may be grounds for disciplinary action.

The specialist should communicate to the complainant that his/her inspection is conducted for the purpose of enforcing the provisions of the Structural Pest Control Act and that the Board's jurisdiction is over the license/registration certificate and does not award a financial settlement to the complainant.

No Violation Determined:

When a Structural Pest Control Board Specialist cannot determine that a violation by a licensee/registered company occurred, the specialist, at that time, shall inform the complainant and shall include in the specialist report that he/she has given this information to the complainant. When a case is closed by settlement or dismissal, the parties thereto shall be notified by the Board within ten (10) days.

Violation(s) Determined:

When violations are found, a letter from the Registrar enclosing the report of findings of the Structural Pest Control Board Specialist (example below) may be sent to the licensee/registered company by certified mail with return requested allowing him/her/it thirty (30) days to comply. Extensions may be granted by the specialist but all extensions must be requested for in writing and should not extend beyond thirty (30) days. A copy of the letter will be sent to the complainant.

Example

RE:

NOTICE

The above-numbered case was opened as result of a complaint filed by regarding a property at ,

Enclosed is a Report of Findings from the Specialist assigned to the case that confirms your activities regarding the property are not in compliance with the Structural Pest Control Act and/or Rules and Regulations.

Within thirty (30) calendar days from receipt of this letter, you must do the following:

( ) Inspect the property and submit a Wood Destroying Pests and Organisms Inspection Report addressing, but not limited to, the items described in the attached Report of Findings to the Board. Send a copy of the report to the attention of the assigned Specialist/Investigator at the Structural Pest Control Board, 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815-3831, as well as the complainant/property owner.

( ) Bring the property into compliance by correcting the items described in the attached Report of Findings.

( ) Submit a Standard Notice of Work Completed and Not Completed to the Board. Send a copy of the Notice to the assigned Specialist at the Structural Pest Control Board, 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815-3831, as well as the complainant/property owner.

An inspection fee in accordance with Business and Professions Code section 8622 may be assessed for inspection(s). If a subsequent inspection is deemed necessary, a reinspection fee may be assessed. A notice of the total amount of inspection fees due will be sent to you under separate cover.

In order to expedite this case, please notify the Specialist named in the attached Report of Findings, in writing, within ten (10) calendar days of your intention to comply with these requirements.

You are hereby advised that if you desire a hearing to contest the Report of Findings, you must mail/deliver to the Board a written request for a hearing within twenty (20) days of your receipt of the Report of Findings. You may, but need not, be represented by counsel at any or all stages of these proceedings. You are further advised that any hearing held hereunder will not be limited to the question of non-compliance or paymert of the inspection fee, but may also include evidence of any other violations you may have committed in this instant complaint case or any other case. Said hearing could result in suspension or revocation of your license, as well as the imposition of other penalties authorized by law.

Please note that failure to file a request for a hearing within the twenty (20) days of your receipt of this Report of Findings shall constitute a waiver of your right to request a hearing. If you do not request a hearing, payment of any assessment shall not constitute an admission of any non-compliance charged.

You are also advised that even if you do not request a hearing, the Board may initiate the hearing process by filing an accusation against you. Any hearing held hereunder will not be limited to the question of non-compliance or payment of the inspection fee(s), but may also include evidence of any other violations you may have committed. Said hearing could result in suspension or revocation of your license as well as the imposition of other penalties authorized by law.

Sincerely,

STRUCTURAL PEST CONTROL BOARD

Cases shall be closed by the Structural Pest Control Board Specialist or sent to the Chief Enforcement Officer for enforcement of disciplinary determination within forty (40) days after compliance or noncompliance with the report of findings.

Inspection Fees Under Section 8622

The Structural Pest Control Board Specialist shall be the Board's representative for determining licensee/registered company compliance.

The fee shall be based on the time necessary for the initial inspection and final inspection following a corrected inspection or completion report, or both. Travel time is not included.

Fees shall be assessed at the full cost recovery rate computed for Structural Pest Control Board Specialists up to $125 per inspection.

If through mediation the licensee/registered company agrees to perform corrections as identified

by the complaint questionnaire but the homeowner will not consent and insists upon an inspection by a Structural Pest Control Board Specialist, no inspection fee will be assessed. However, a licensee/registered company must provide evidence that an offer was made prior to the Structural Pest Control Board Specialist referral in order to avoid paying fees. A positive offer must be in writing or made to the consumer services representative. Without such evidence, inspection fees will be assessed, unless the specialist determines the property is in compliance.

Complaints that result in the inspection by a Structural Pest Control Board Specialist and the filing of disciplinary action without allowing the licensee/registered company thirty (30) days to correct is exempt from the assessment.

A letter advising of the required fee will be sent to the licensee/registered company upon closure. If payment is not remitted within thirty (30) days of the original request, a final demand for payment will be sent.

If payment is not remitted within thirty (30) days of the final notice, administrative or civil action will be initiated by the Registrar.

Reference: Sections 108, 129, 155, 8520 and 8622, Business and Professions Code

History:
Adopted 4/20/79
Amended 10/30/81
Amended 11/12/82
Amended 10/29/83
Amended 10/6/84
Amended 10/12/85
Amended 10/25/86
Amended 2/19/88
Amended 4/22/94
Amended 10/2/98
Amended 1/11/08
Amended 11/18/08

NO. E-3

SUBJECT: ADMINISTRATIVE HEARING PROCESS

PURPOSE: To establish guidelines for procedures for administrative hearings and content of proposed decisions.

POLICY

When a licensee/registered company has an accusation filed against him/her, the Board will consider hearing the matter in front of the administrative law judge whenever the Registrar recommends that the accusation is unusual and warrants the Board's attention.

Office of Administrative Hearings Agency Policy Statements

Where the record permits, the proposed decision shall contain findings of fact as to whether restitution has been made. When offered by the respondent, a conditional order (probationary) may include restitution in the amounts of and on the terms offered.

When appropriate, the proposed order should permit completion of work contracted for by the licensee/registered company prior to the hearing (Business and Professions Code section 8620).

It is requested that findings of fact set forth concisely those facts upon which the administrative law judge rests any extraordinary conclusions or recommendation. Aggravating circumstances, mitigating circumstances, or factors relating to rehabilitation, or the lack thereof (particularly including whether or not restitution has been made), should be included in the findings.

Civil penalties shall not be assessed by the administrative law judge but are left to the discretion of the Board.

Board Member and Staff Appearance with Legal Counsel

The Registrar, Chief Enforcement Officer and/or Board Members shall not discuss an accusation which is pending before the Board with the respondent and/or his/her/its counsel.

Reference: Section 8620, Business and Professions Code
Section 11517 and 11518, California Administrative Procedure Act

History: Adopted 4/20/79
Amended 11/12/82
Amended 10/25/86
Amended 10/2/98
Amended 11/18/08

NO. E-4

SUBJECT: STIPULATED AGREEMENT

PURPOSE: To establish guidelines for negotiating settlements of administrative actions.

POLICY

Stipulated agreements are recognized by the board as a means of resolving violations of the Structural Pest Control Act without further expense to either the board or the licensee/registered company. The Registrar and Chief Enforcement Officer have delegated authority to negotiate stipulated agreements on the board's behalf. The following procedures and considerations, however, must be complied with by the licensee/registered company or the licensee's/registered company's attorney in submitting stipulated agreements for board consideration.

1. The stipulation should be in writing and submitted by the respondent through the Deputy Attorney General assigned to the case for review by the registrar and submission to the board.

2. The stipulation should contain a penalty.

3. The stipulation should provide for a minimum three year probationary period.

4. The stipulation should specifically state whether restitution has been or will be made to the consumer and the amount of such restitution.

5. The stipulation should provide that respondent agrees to provide a surety bond as required by Business and Professions Code section 8697.3.

6. The stipulation should require as a condition of probation that the respondent complete the Board approved course in the appropriate branch(es) of violation within one and one-half years of the effective date of the decision with a final grade of c minus (c-) or better.

7. The stipulation may restrict discipline to the branch(es) of violation.

8. Quarterly reports may be required as a condition of probation. If so required, respondent must agree to prepare reports under penalty of perjury specifying the following for the particular quarter:

<u>Operator – Branch I</u>

A. Number of fumigations performed.

B. Number of fumigations using Methyl Bromide, Vikane and other fumigants, identifying such other fumigants.

C. Name(s) and license number(s) of field representative(s) and operator(s) employed.

D. Name(s) and license number(s) of supervisor(s) in charge of licensees and work crews.

E. Type and amount of training offered to new hires and continuing employees.

F. Complaints received by the company regarding fumigations.

G. Notices of violations or citations issued by agencies other than the Structural Pest Control Board.

H. Any other information requested by the registrar.

Operator – Branch II

A. Number of services performed.

B. Name(s) and license number(s) of field representative(s) and operator(s) employed.

C. Name(s) and license number(s) of licensed applicator(s) employed.

D. Name(s) and license number(s) of supervisor(s) in charge of licensees and work crews.

E. Type and amount of training offered to new hires and continuing employees.

F. Complaints received by the company regarding pesticide misapplication.

G. Pesticide-related notices of violation or citations issued by agencies other than the Structural Pest Control Board.

H. Any other information requested by the registrar.

Operator – Branch III

A. Name(s) and license number(s) of field representative(s) and operator(s) employed and the number of inspections completed by each.

B. Name(s) and license number(s) of licensed applicator(s) employed.

C. Name(s) and license number(s) of supervisor(s) in charge of licensees and work crews.

D. Type and amount of training offered to new hires and continuing employees.

E. Complaints received by the company regarding inspections or work performed.

F. Notices of violations or citations issued by agencies other than the Structural Pest Control Board.

G. Number of inspections ordered by licensed real estate agents or realty offices and the number of inspections ordered by individuals.

H. Number of Notices of Work Completed and Not Completed filed.

I. Any other information requested by the registrar.

Field Representative/Operator-Employee – Branch I

A. Number of fumigations performed by this licensee.

B. Complaints regarding fumigations performed by this licensee.

C. Training courses completed or currently being taken by this licensee.

D. Notices of violations or citations issued to this licensee by agencies other than the Structural Pest Control Board.

E. Any other information requested by the registrar.

Field Representative/Operator-Employee – Branch II

A. Number of pesticide application performed by this licensee.

B. Complaints received regarding pesticide misapplication by this licensee.

C. Training courses completed or currently being taken by this licensee.

D. Pesticide-related notices of violations or citations issued to this licensee by agencies other than the Structural Pest Control Board.

E. Any other information required by the registrar.

Field Representative/Operator-Employee – Branch III

A. Number of inspections completed by this licensee.

B. Complaints regarding inspections or work performed by this licensee.

C. Training courses completed or currently being taken by this licensee.

D. Pesticide related notices of violations or citations issued to this licensee by agencies other than the Structural Pest Control Board.

E. Any other information requested by the registrar.

A cover letter from respondent may accompany the stipulation setting forth the following:

(1) Any mitigating circumstances which may justify a reduction of the penalty.

(2) Procedural steps to be taken by the respondent to prevent a reoccurrence of the violations.

(3) An explanation for the failure to resolve the complaint at the consumer services representative or board specialist level prior to filing of the accusation by the board.

(4) An explanation as to why discipline is limited to a specific branch office(s) or to a specific branch of licensure.

A detailed cover memorandum from the deputy attorney general assigned to the case must accompany the stipulation setting out some evidence and facts adverse and/or beneficial to the board's case and setting forth the reasons why the Board should accept the stipulation. If this cover memorandum does not accompany a stipulation, it will be returned to the deputy attorney general.

Reference: Sections 101.6 and 8697.3, Business and Professions Code
Section 1999.1, California Code of Regulations
Section 11511.5, California Administrative Procedure Act

History: Adopted 11/12/82
Amended 10/29/83
Amended 8/10/85
Amended 10/25/86
Amended 2/19/88
Amended 4/22/94
Amended 10/6/95
Amended 10/5/96
Amended 10/2/98

NO. E-5

SUBJECT: COMPLAINT/DISCIPLINARY DISCLOSURE

PURPOSE: To establish guidelines for disclosing complaints and disciplinary action histories to the public.

POLICY

It is the policy of the Structural Pest Control Board that information regarding complaints and disciplinary actions against licensees/registered companies and information regarding their license/registration certificate status as specified below shall be readily accessible in a meaningful form to the public unless in the determination of the Board, disclosure of such complaint information would be unduly prejudicial to licensees/registered companies.

Information to be Provided Regarding Complaints

The Board shall maintain a system of information regarding complaints received during the preceding two fiscal years, which will afford to the public, upon request, all of the following regarding a particular licensee/registered company:

A. The number of complaints filed against a licensee/registered company which, after contact with the licensee/registered company, have been closed. If information is requested on a multi-branch company, information will be given on the branch office requested; and

B. With respect to each such complaint, the following information:

(1) Its date of receipt

(2) Its disposition, by indicating whether the matter has been:

a) dismissed

b) disposed of through settlement or compromise

c) referred to formal disciplinary action

d) disposed of through any other action, formal or informal, taken against the licensee/registered company

Information to be Provided Regarding Disciplinary Actions

The Board shall maintain records showing the disciplinary history of all current

REPEALED

licensees/registered companies and shall inform the public, upon request, whether any current licensee/registered company has been disciplined during the preceding three years, and, if so, when and for what offense. Any request for a license history beyond the preceding three years must be made in writing and provide full cost recovery.

Information to be Provided Regarding License/Registration Certificate Status

The Board shall provide to the public, upon request, the following information regarding past and current licensees/registered companies:

A. The name of the licensee/registered company, including all business or fictitious names that appear on board records

B. The license/registration certificate number

C. The address of record and telephone number

D. The date of original licensure/or registration

E. Information concerning a bond, insurance or cash deposit

F. The date such license/registration certificate expired or was terminated and, if applicable, the reason for termination

Quantity of Information to be Provided per Week

To avoid undue delay in the Board's response to other requesters and in order that no requester may overburden the Board's system, the Registrar may establish reasonable limits on the number of requests per week from any one requester which the Board may accept.

Press Releases

Notices on suspension or revocation of a license and/or registration may be sent by the Board after the period for appeal has expired to media sources within the licensee's location without departmental approval. Actions that involve the department shall be submitted to the director.

REPEALED

Reference: Sections 6250, 6252 and 6253, Business and Professions Code

History: Adopted 1/18/80
Amended 11/12/82
Amended 10/25/86
Amended 2/19/88
Amended 10/2/97
Repealed 10/14/99

NO. E-6

SUBJECT: ACCEPTING A COMPLAINT BY A REGISTERED COMPANY AGAINST A LICENSED EMPLOYEE

PURPOSE: To establish instructions for accepting a complaint by a registered company against a licensed employee

POLICY

1. A complaint will be accepted for serious cases at the Registrar's discretion.

2. The company must submit to the Board a minimum of three addresses where major violation of the law occurred by the licensee.

3. The company must secure an agreement with each property owner that he/she will allow a Structural Pest Control Board Specialist to inspect the property prior to the repairs being undertaken by the registered company.

4. The complaint is sent directly to the appropriate specialist for inspections of the properties. If violations are observed, the registered company and subject employee are advised.

5. The company must make the necessary repairs for the consumer.

6. Disciplinary action is initiated against the licensed employee.

7. Cases involving poor quality control by an employer, poor supervision, poor training, etc. will not be accepted by the Board.

REPEALED

Reference: Sections 129, 8616.5, 8621 and 6822, Business and Professions Code

History: Adopted 8/4/89
Repealed 10/4/96

NO. E-7

SUBJECT: BOARD MEMBER ASSISTANCE IN COMPLAINT INVESTIGATION

PURPOSE: To permit a board member's assistance and expertise in the complaint investigation process while assuring a non-biased disciplinary decision.

POLICY

The registrar, at his or her discretion, may request a board member's assistance while investigating a complaint with the understanding that the board member should recuse himself/herself when the matter is considered for disciplinary action.

REPEALED

Reference: Sections 129, 8620, 8621 and 8622, Business and Professions Code

History: Adopted 4/22/94
Amended 11/18/08
Repealed 10/17/13

NO. E-8

REPEALED

SUBJECT: BOARD REVIEW OF CLOSED COMPLAINTS

PURPOSE: To establish quality control procedures

POLICY

At each Board meeting, the Board will be provided with a list of closed consumer complaints by number and disposition. A committee of two Board Members will select and review cases.

Reference: Sections 129, 8620, 8621 and 8622, Business and Professions Code

History: Adopted 10/22/93
Repealed 1/18/02

NO. E-9

REPEALED

SUBJECT: FALSE ADVERTISING/UNFAIR COMPETITION

PURPOSE: To establish guidelines for accepting complaints regarding false advertising/unfair competition

POLICY

In cases of significant wrong doing involving false advertising or unfair competition, appropriate action under the provisions of Business and Professions Code sections 17200 and 17500 will be considered.

Reference: Sections 8648, 17200 et seq., 17500 et seq.

History: Adopted 10/22/94
Repealed 10/11/02

NO. E-10

SUBJECT: COMPLAINT DISCLOSURE POLICY

PURPOSE: Defined Policy to Provide the Public with Information Regarding Complaint and Disciplinary Actions

POLICY

The Structural Pest Control Board (hereinafter "Board") complaint disclosure policy has been developed to provide the public with information regarding complaints and disciplinary action against pest control licensees, candidates for licensure, and unlicensed individuals.

The Board's complaint disclosure policy does not include non-actionable complaints. Non-actionable complaints are those, which after investigation, were determined to be unsubstantiated or complaints which have been determined not to be within the Board's jurisdiction. If a complaint was initially determined to indicate a probable violation of law and is later found, upon further investigation, not to constitute a violation, it shall not be disclosed.

In complying with a request for complaint information, the Board may provide such cautionary statements as may be considered appropriate regarding the usefulness of complaint information to individual consumers in their selection of a pest control licensee.

Information to be Released

The Board will disclose the following information regarding complaints:

Closed Actionable Complaints

Closed actionable complaints are defined to mean complaints, which the Board has (1) investigated, (2) determined that there was a violation of the laws regulating the practice of structural pest control and (3) taken disciplinary action (i.e. citation, accusation, statement of issued, stipulated settlement).

With regard to closed actionable complaints, the board will disclose the number of closed actionable complaints, and the disposition or action taken, including any criminal conviction or any decision or stipulation which resulted from the filing of an accusation or statement of issues, and the date of closure. The disposition of administrative cases (in accusation and statement of issues) will be released only after the decision has become effective. The Board will furnish a copy of the accusation, statement of issues, citations, documents introduced at the hearing relating to a disciplinary action, and the decision resulting.

Pending Complaints

Pending complaints are defined to include the following:

Category 1.

(a) Complaints which are under investigation but no determination has been made as to whether a violation of the Board's laws has occurred, or

(b) Complaints which after review by Board staff, indicate a probable violation of the Board's laws, but a disposition of the complaint is pending.

Category 2.

(a) A complaint which after an investigation has indicated a probable violation of the board's law and has been referred to the Attorney General's Office for prosecution.

Category 3.

(a) A complaint which has resulted in the issuance of a citation by the Board or county agricultural commissioners or the initiation of formal disciplinary action, e.g., an accusation or statement of issues being filed by The Office of the Attorney General, but where a decision has not been rendered.

Information To Be Disclosed on Pending Complaints

Category 1 Complaints---The Board will disclose no information regarding Category 1 complaints.

Category 2 Complaints---The Board will disclose the existence and number of Category 2 complaints filed against a licensee, along with a statement that the complaint has been referred to The Office of the Attorney General for review and possible prosecution, but that there has been no final determination of wrongdoing by the licensee.

Category 3 Complaints---The Board will disclose the existence and number of category 3 complaints and provide copies of the charging documents, e.g. accusation, statement of issues, or citations along with a statement that there has been no final determination of wrongdoing by the licensee.

History: Adopted 8/13/99

NO. E-11

SUBJECT: COMPLAINT DISCLOSURE PROCEDURES FOR STAFF

PURPOSE: To Provide Staff Guidelines For Disclosing Information on Complaints

Closed Actionable Complaints

Upon receipt of any inquiry for complaint information, which results in identification of a closed actionable complaint(s), as defined in the Board's Complaint Disclosure Procedure, enforcement staff shall disclose specific information after making the following disclosure statement:

The Board currently has (specify number) closed complaint(s), which has resulted in a administrative or disciplinary action against this individual. A determination has been made that there has been a violation of the laws regulating the practice of pest control. Copies of an accusation, statement of issues, citations, final decisions, and any documents introduced at an administrative hearing or documents, which have been previously distributed to a member of the public, can be disclosed to a member of the public. All other documents contained in the investigatory file will not be made public in accordance with Government Code Section 6254(f).

Following the statement, enforcement staff will disclose the number of complaints received and if there was a violation or if it was settled.

Pending Complaints in Board Office

Upon receipt of an inquiry for complaint information, which results in the identification of an open complaint(s), which is under investigation and pending a determination of a violation of intended action, enforcement staff shall make the following disclosure statement:

If no action has been determined or taken on an open complaint the staff will advise that "Currently there are no complaints against the company/individuals."

If complaints after investigation indicated a probable violation, and have been referred to The Office of the Attorney General, but no formal documents have been filed then the following statement should be made. "The Board currently has (specific number) complaint(s) open against this company/individual. The matter(s) has been forwarded to The Office of the Attorney General for review and possible prosecution. At this time there have been no confirmed violations of the Structural Pest Control Act."

Pending Complaints – Accusation or Statement of Issues Has Been Served

Upon receipt of an inquiry for complaint information which results in the identification of an open complaint which has been referred to The Office of the Attorney General and an accusation or statement of issues has already been served, enforcement staff shall make the following disclosure statement:

"The Board currently has (specify number) complaint(s) open against this individual. The matter(s) has been forwarded to The Office of the Attorney General and an accusation/statement of issues has been served. At this time, there have been no confirmed violations of the Structural Pest Control Act. A copy of the accusation/statement of issues can be obtained by submitting a written request to the Board."

Subpoenas

If the Board is served with a subpoena that document will be given to the Executive Officer or the Assistant Executive Officer and forwarded to Legal Counsel before any documents are released.

Staff will not provide any additional information.

History: Adopted 8/13/99

A MANUAL
OF
DISCIPLINARY GUIDELINES
AND
MODEL DISCIPLINARY ORDERS

STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA

2010

STRUCTURAL PEST CONTROL BOARD
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815-3831

(916) 561-8700

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DISCIPLINARY GUIDELINES

INTRODUCTION

To establish consistency in disciplinary penalties for similar offenses, the Structural Pest Control Board establishes these uniform disciplinary guidelines.

The Board recognizes that these penalties and conditions of probation are merely guidelines and that administrative law judges must be free to exercise their discretion in such cases. However, the Board desires that these guidelines be followed to the extent possible and requests that the administrative law judge hearing the case include some explanation of any departure or omissions from the guidelines in the proposed decision so that the circumstances can be better understood by the Board during its review of the case for ultimate action.

The Board desires that matters in extenuation or mitigation, as well as those in aggravation, be fully considered and noted in the proposed decision. Of primary importance is the effect the licensee's/registrant's conduct had or can have on the public as consumers.

PENALTY GUIDELINES

VIOLATION	MINIMUM PENALTY	OPTIONAL PROBATION CONDITIONS	MAXIMUM PENALTY
Section 8635 Disregard of Specifications	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 22, 23	Revocation and optional condition 24
Section 8636 Violation of Laws	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 22, 23	Revocation and optional condition 24
Section 8637 Misrepresentation	Revocation and optional condition 24		Revocation and optional condition 24
Section 8638 Violation of Contracts	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8639 Aiding and Abetting	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8640 Real Estate Rebates	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8641 Violation of Chapter and Rules	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 22, 23, 25	Revocation and optional condition 24
Section 8642 Fraud	Revocation, stayed, 3 years probation	16, 17/18/19, 20, 21, 22, 23, 25	Revocation and optional condition 24
Section 8643 Negligent Handling or Use of Poisonous Agent	Revocation, stayed	16, 17/18/19, 20, 21, 23, 25	Revocation and optional condition 24
Section 8644 Misrepresentation After Inspection	Revocation, stayed, 3 years probation	16, 17/18/19, 20, 21, 22, 23, 25	Revocation and optional condition 24
Section 8645 Impersonation	Suspension, stayed, 3 years probation	16, 20, 21, 23	Revocation and optional condition 24
Section 8646 Disregard of Laws	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23, 25	Revocation and optional condition 24
Section 8646.5 Cease & Desist	Revocation, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24

VIOLATION	MINIMUM PENALTY	OPTIONAL PROBATION CONDITIONS	MAXIMUM PENALTY
Section 8647 Violation of Laws as to Insecticides	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8648 False Advertising	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 23	Revocation and optional condition 24
Section 8649 Conviction, Evidence	Revocation, stayed, 3 years probation	16, 20, 21, 23	Revocation and optional condition 24
Section 8650 Name and Location as Licensed	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8651 Performing or Soliciting Beyond Scope of License	Revocation, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8652 Failure to Make and Keep All Reports	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8653 Withholding Payment	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8654 Prohibition Against Association of Suspended Operator	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8655 Charge Substantially Related	Revocation, stayed, 3 years probation	16, 17/18/19, 20, 21, 23	Revocation and optional condition 24
Section 8657 Appointment of Receiver	Suspension, stayed, 3 years probation	16, 17/18/19, 20, 23	Revocation and optional condition 24
Violation of Probation	Extend probation with appropriate new conditions		Revoke probation and impose stayed penalty

FACTORS TO BE CONSIDERED

In determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, factors such as the following should be considered:

1. Actual or potential harm to the public.
2. Actual or potential harm to any consumer.
3. Prior disciplinary record.
4. Number and/or variety of current violations.
5. Mitigation evidence.
6. In case of a criminal conviction, compliance with terms of sentence.
7. Overall criminal record.
8. Whether the conduct was knowing, willful, reckless or inadvertent.
9. The financial benefit to the respondent.
10. Evidence that the unlawful act was part of a pattern of practice.
11. Currently on probation.

The Board does not intend that any one of the above factors be required to justify the minimum or maximum penalty as opposed to an intermediate one.

STANDARD TERMS AND CONDITIONS OF PROBATION

The standard conditions of probation generally appearing in every case are:

A. Obey All Laws [8] *
B. File quarterly reports [9]
C. Tolling of probation if respondent moves out of state [10]
D. Notice to employers [11]
E. Notice to employees [12]
F. Posting of suspension sign [13]
G. Violation of probation [14]
H. Completion of probation [15]

OPTIONAL TERMS AND CONDITIONS OF PROBATION

A. Actual suspension of license/registration certificate [16]
B. Completion of continuing education course appropriate Branch 1 [17], Branch 2 [18] or Branch 3 [19]
C. Reimbursement to the Board for random inspections [20]
D. Payment of inspection fee [21]
E. Restitution to consumer [22]
F. Prohibition from serving as officer, director, associate, partner or qualifying manager [23]
G. No ownership of registered company [24]
H. Take and pass licensure examination [25]

*The bracket number [8] refers to the number of the model condition spelled out in full in the Model Disciplinary Orders.

DEFAULT DECISION

The disciplinary penalty in a default decision is revocation.

CIVIL PENALTY IN LIEU OF SUSPENSION

The Board has the authority to assess a civil penalty in lieu of actual suspension as follows:

(a) not more than $5,000 for an actual suspension of one to 19 days.
(b) not more than $10,000 for an actual suspension of 20 to 45 days.

The respondent may express a preference for paying a civil penalty in lieu of actual suspension, but the Board is not bound by any expression of preference.

If such preference is expressed, it should be included in the proposed decision.

MODEL DISCIPLINARY ORDERS

MODEL NUMBERS

[1] Revocation

(Ex. Operator's/Field Representative's) License/Company Registration Certificate No. (Ex. OPR 1234) issued to respondent (Ex. John Doe) is revoked.

[2] Revocation - Multiple Causes

(Ex. Operator's/Field Representative's) License/Company Registration Certificate No. (Ex. OPR 1234) issued to respondent (Ex. John Doe) is revoked pursuant to Determination of Issues (Ex. I, II and III) separately and for all of them.

[3] Suspension - Single Cause

(Ex. Operator's/Field Representative's) License/Company Registration Certificate No. (Ex. OPR 1234) issued to respondent (Ex. John Doe) is suspended (Ex. thirty (30) days).

[4] Suspension - Multiple Causes (run concurrently)

(Ex. Operator's/Field Representative's) License/Company Registration Certificate No. (Ex. OPR 1234) issued to respondent (Ex. John Doe) is suspended for (Ex. thirty (30) days) pursuant to Determination of Issues (Ex. I, II and III) separately and for all of them. All suspensions shall run concurrently.

[5] Suspension - Multiple Causes (run consecutively)

(Ex. Operator's/Field Representative's) License/Company Registration Certificate No. (Ex. OPR 1234) issued to respondent (Ex. John Doe) is suspended (Ex. thirty (30) days) pursuant to Determination of Issues (Ex. I, II and III) and (Ex. sixty (60) days) pursuant to Determination of Issues (Ex. IV and V). These suspensions shall run consecutively, for a total period of (Ex. ninety (90) days).

[6] Standard Stay Order

However, (revocation/suspension) is stayed and respondent is placed on probation for (Ex. three (3) years) upon the following terms and conditions:

[7] Probation

Respondent is placed on probation for a period of three years.

STANDARD CONDITIONS

[8] Obey All Laws

Respondent shall obey all laws and rules relating to the practice of structural pest control.

[9] Quarterly Reports

Respondent shall file quarterly reports with the Board during the period of probation.

[10] Tolling of Probation

Should respondent leave California to reside outside this state, respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

[11] Notice to Employers

Respondent shall notify all present and prospective employers of the decision in case No. (Ex. 91-01) and the terms, conditions and restriction imposed on respondent by said decision. Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the decision in case No. (Ex. 90-01).

[12] Notice to Employees

Respondent shall, upon or before the effective date of this decision, post or circulate a notice to all employees involved in structural pest control operations which accurately recite the terms and conditions of probation. Respondent shall be responsible for said notice being immediately available to said employees. "Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation.

[13] Posted Notice of Suspension

Respondent structural pest control company shall prominently post a suspension notice provided by the Board of the Board's order of suspension at its principal office and each of its branch offices in a place conspicuous and readable to the public. Said notice shall remain so posted during the entire period of actual suspension.

[14] Completion of Probation

Upon successful completion of probation, respondent's license/certificate will be fully restored.

[15] Violation of Probation

Should respondent violate probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

OPTIONAL CONDITIONS

[16] Actual Suspension

(Ex. Operator's/Field Representative's) License/Company Registration No. (Ex. OPR 1234) issued to (Ex. John Doe) serves an actual suspension of (Ex. ten (10) days).

[17] Continuing Education Course - Branch 1

Respondent (Ex. John Doe) shall complete a continuing education course for pest control in Branch 1 (fumigation) within eighteen (18) months of the effective date of this decision.

[18] Continuing Education Course - Branch 2

Respondent (Ex. John Doe) shall complete a continuing education course for pest control in Branch 2 (general pest) within eighteen (18) months of the effective date of this decision.

[19] Continuing Education Course - Branch 3

Respondent (Ex. John Doe) shall complete a continuing education course for pest control in Branch 3 (wood destroying pests and organisms) within eighteen (18) months of the effective date of this decision.

[20] Random Inspections

Respondent shall reimburse the Board for (Ex. one (1)) random inspection per (Ex. quarter) by Board specialists during the period of probation not to exceed $125 per inspection.

[21] Inspection Fees

Respondent shall pay to the registrar, or designee, an inspection fee of (Ex. $50) within thirty (30) days from the effective date of this decision.

[22] Reimbursement to Consumer

Respondent shall submit proof to the registrar that restitution in the amount of (Ex. $8,000) has been made to (Ex. John Smith) within (Ex. thirty (30) days) of the effective date of the decision.

[23] Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying Manager

Respondent is prohibited from serving as an officer, director, associate, partner, qualifying manager or branch office manager of any registered company during the period that discipline is imposed on (Ex. Operator's/Field Representative's) License No. (Ex. OPR 1234).

[24] No Interest In Any Registered Company

Respondent shall not have any legal or beneficial interest in any company currently or hereinafter registered by the Board.

[25] Take And Pass Licensure Examinations

Within (Ex. six (6) months), respondent shall take and pass the (Ex. Operator's/Field Representative's) examination currently required of new applicants for (Ex. Operator's/Field Representative's) license. The examination shall be taken on regularly scheduled dates. Respondent shall pay the established examination fee.

CROSS REFERENCE
BUSINESS AND PROFESSIONS CODE (B & P)
SECTIONS TO BUSINESS AND PROFESSIONS CODE SECTION
ESTABLISHING GROUNDS FOR DISCIPLINARY ACTION

VIOLATION OF B & P CODE SECTION	GROUNDS FOR DISCIPLINE UNDER B & P CODE
8505	8651
8505.2	8646
8505.3	8646
8505.4	8646
8505.5	8646
8505.6	8646
8505.7	8646
8505.8	8646
8505.9	8646
8505.10	8646
8505.11	8646
8505.12	8646
8505.13	8646
8505.14	8646
8505.15	8646
8505.16	8646
8506(c)	8641
8506.2	8641
8507	8651
8513	8641
8514	8641
8516	8641
8516.1	8641
8516.2	8641
8516.5	8641
8517	8641
8518	8641
8519	8644
8538	8646
8567	8641
8571	8641
8610	8641
8611	8641
8612	8650
8613	8641, 8651
8622	8641
8691	8641
8697.4	8641

CROSS REFERENCE

CALIFORNIA CODE OF REGULATIONS (CCR) SECTIONS TO BUSINESS AND PROFESSIONS CODE SECTION

ESTABLISHING GROUNDS FOR DISCIPLINARY ACTION

VIOLATION OF CCR SECTION	GROUNDS FOR DISCIPLINE UNDER B & P CODE
1911	8641
1912	8650
1914	8650
1916	8641
1917	8650
1937	8641
1937.13	8641
1937.14	8635, 8636
1937.16	8641
1970(a) (b)	8652
1970.3	8646
1970.4(a)(b)(c)(d)(e)(f)	8646
1971(a) (1) (A) (C) (D)	8646
1971(a) (1) (B)	8647
1971(a) (2)	8647
1983	8643, 8647
1990	8641
1991	8641
1992	8641
1993	8641
1994	8641
1996	8641
1996.1	8641
1998	8641
1998(f)	8652

January 2015

◄ Dec 2014 | Feb 2015 ►

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14 SPCB Meeting (San Diego)	15 SPCB Meeting (San Diego)	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

July 2015

◄ Jun 2015 | Aug 2015 ►

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22 SPCB Meeting (San Diego)	23 SPCB Meeting (San Diego)	24	25
26	27	28	29	30	31	

October 2015

◄ Sep 2015 | Nov 2015 ►

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1 70	2 71	3 72
4 73	5 74	6 75	7 76	8 77	9 78	10 79
11 80	12 81	13 82	14 83	15 84	16 85	17 86
18 87	19 88	20 89	21 90	22 91	23 92	24 93
25 94	26 95	27 96	28 97	29 98	30 99	31 100