



ANNUAL BOARD MEETING

NOTICE and AGENDA

Wednesday, October 12, 2016
12:00 P.M.

Thursday, October 13, 2016
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.

Wednesday – 12:00 P.M.

- I. Roll Call / Establishment of Quorum
- II. Flag Salute / Pledge of Allegiance
- III. Public Comment for 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. Petition for Reinstatement
Jose E. Fisher – FR 43561 – Branch 1
- V. Petition for Reinstatement
Bradley D. Kendrick – FR 45047 – Branch 2
- VI. Petition for Reinstatement
Jose G. Ramirez – FR 42769 – Branch 1
- VII. 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 including the above petitions.

Return to Open Session

- VIII. Recess

Thursday - 9:00 A.M.

- IX. Roll Call / Establishment of Quorum
- X. Flag Salute / Pledge of Allegiance
- XI. Public Comment for 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)]
- XII. 9:00 A.M. - Public Hearing Regarding the Proposed Amendment of California Code of Regulations (CCR), Title 16, Division 19, Section 1914 to Prohibit the Approval and Use of a Name or Telephone Number That is the Same as a Company Whose Registration has Been Surrendered
- XIII. Consideration of Adopting Amendments to Title 16 CCR, Section 1914 to Prohibit the Approval and Use of a Name or Telephone Number That is the Same as a Company Whose Registration has Been Surrendered
- XIV. 9:00 A.M. - Public Hearing Regarding the Proposed Amendment of CCR, Title 16, Division 19, Section 1937.11 to Amend the Board's Disciplinary Guidelines
- XV. Consideration of Adopting Amendments to Title 16 CCR, Section 1937.11 to Amend the Board's Disciplinary Guidelines
- XVI. 9:00 A.M. - Public Hearing Regarding the Proposed Amendment of CCR, Title 16, Division 19, Section 1993.2, Repeal of Section 1993.3, and Addition of Section 1993.4 to Create a Distinction Between and Guidelines for Termite Baiting and Termite Monitoring Systems
- XVII. Consideration of Adopting Amendments to Title 16 CCR, Section 1993.2, Repeal of section 1993.3 and Addition of Section 1993.4 to Create a Distinction Between and Guidelines for Termite Baiting and Termite Monitoring Systems
- XVIII. Approval of Minutes of the July 14, 2016 Board Meeting
- XIX. Executive Officer's Report
 - Licensing and Enforcement Survey Results and Statistics
 - Examination Statistics
 - Staffing Changes
 - WDO Statistics
 - Examination Development
 - Regulatory Update *(The Executive Officer Will Provide Regulatory Action Updates for the Following Sections of the California Code of Regulations, Title 16, Division 19: 1936, 1936.1, and 1936.2)*
 - Legislative Updates *(The Executive Officer Will Provide Legislative Updates for the Following Bills: Assembly Bill 551, Assembly Bill 1874, Assembly Bill 2529, Senate Bill 1039)*
- XX. Update From Legal Counsel regarding status of Senate Bill 1194

- XXI. Annual Review and Possible Amendment of Board Policies and Procedures, Including General Board Administrative Procedures, Licensing and Examinations, and Enforcement Policies
- XXII. Discussion and Possible Board Action Regarding the Recommendations of the CE IPM Review Committee and Potential Conflicts With the Proposed Federal Continuing Education / Training Guidelines
- XXIII. Discussion and Possible Board Action Regarding CCR section 1914 and Board Approval of Similar Company Names
- XXIV. Structural Pest Control Board Research Advisory Panel Update
- XXV. Discussion and Possible Board Action Regarding Increasing the Requirement for Rodenticide Education
- XXVI. Board Calendar
- XXVII. Future Agenda Items
- XXVIII. Annual Election of Board Member President and Vice President
- XXIX. 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. All times indicated are approximate. 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. The public may comment on issues not on the agenda, but Board Members cannot discuss any issue that is not listed on the agenda. 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

TITLE 16. STRUCTURAL PEST CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board (Board) is proposing to take action as described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Department of Consumer Affairs
Hearing Room
2005 Evergreen Street
Sacramento, CA 95815
October 13, 2016
9:00 A.M.**

Any interested person, or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile to the Board at (916) 263-2469 or by email to pestboard@dca.ca.gov. The written comment period closes at **5:00 P.M. on Wednesday, October 12, 2016**. The Board will only consider comments received at the Board Office by that time. Submit comments to:

**David Skelton, Administrative Analyst
Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority granted by Business and Professions (B&P) Code Section 8525 and to implement, interpret, or make specific B&P Code Sections 8525 and 8650 the Board is proposing to amend Section 1914 of Division 19, of Title 16, of the California Code of Regulations (CCR).

INFORMATIVE DIGEST

Currently, CCR Section 1914 provides that the Board shall not issue a company registration in the same name as that of a firm whose company registration has been suspended or revoked unless a period of at least one year as elapsed. Additionally, CCR Section 1914 provides that

the use of a name style or telephone number of a company whose registration has been suspended or revoked is a ground for disciplinary action.

This regulatory proposal would add that the Board shall not issue a company registration in the name of a firm whose company registration has been surrendered. Additionally, this regulatory proposal would add that the use of a name style or telephone number of a company whose registration has been surrendered is a ground for disciplinary action.

POLICY STATEMENT OVERVIEW

Pursuant to B&P Code Section 8520.1 protection of the public is the Board's highest priority. In keeping with that mandate, the Board is seeking to increase consumer protection by adding a restriction on the issuance of a company registration in the name of a company whose registration has been surrendered and by making the use of the name or telephone number of a company whose registration has been surrendered a ground for disciplinary action.

When a registered company faces Board administered discipline they are sometimes able to avail themselves of an opportunity to surrender their registration rather than continue through the disciplinary process. Recently, the Board has become aware of registered companies who have surrendered their registration attempting to re-register the company under a different name while continuing to use the same telephone number. The proposed regulation will make clear that in addition to revoked or suspended registrations, the use of a company name or telephone number of a company who has surrendered their registration is also a ground for disciplinary action.

The Board anticipates that the proposed regulation will benefit the health and safety of California residents as well as increase the level of transparency in the structural pest control industry by disallowing companies from using the name or telephone number of a company whose registration has been surrendered.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulation the Board conducted a search for any similar regulations relating to this topic. The Board determined that the proposed regulatory action is not inconsistent or incompatible with existing regulations.

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

Business Impact Statement

The Board has determined that the proposed regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The Board made this determination because the proposed regulation applies only to companies who have surrendered their registration as a result of facing disciplinary action.

Cost impact on representative private person or business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT

The Board has determined that the proposed regulation will have no effect on the creation or elimination of jobs within the state. The Board made this determination because the proposed regulation relates to the approval and use of company names and telephone numbers for companies who have surrendered their license and is therefore unrelated to job creation.

The Board has determined that the proposed regulation will have no effect on the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because the proposed regulation relates to the approval and use of company names and telephone numbers for companies who have surrendered their license and is therefore unrelated to business creation.

The Board has determined that the proposed regulation will have no effect on the expansion of businesses currently doing business within the state. The Board made this determination because the proposed regulation relates to the approval and use of company names and telephone numbers for companies who have surrendered their license and is therefore unrelated to the expansion of businesses.

The Board has determined that the proposed regulation will benefit the health and welfare of California residents and the state's environment in the following ways:

By not allowing companies to use the name or telephone number of a company whose registration has been surrendered, transparency in the structural pest control industry is increased and consumers benefit.

EFFECT ON HOUSING COSTS

The Board has determined that the proposed regulation would have no effect on housing costs.

BUSINESS REPORTING REQUIREMENT STATEMENT

The Board has determined that the proposed regulation will not create a reporting requirement for businesses. The Board made this determination because the proposed regulation relates to the approval and use of company names and telephone numbers and does not contain any reporting requirements.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulation would affect small businesses who use or attempt to use the name and/or telephone number of a company whose registration has been surrendered.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments relevant to the above determinations orally or in writing at the above-mentioned hearing or during the written comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based as well as the express terms of the proposed regulation.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the

proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board's office located at, 2005 Evergreen Street, Suite 1500, Sacramento, California, 95815, or by visiting the Board's website at <http://pestboard.ca.gov/pestlaw/index.shtml>.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named above.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named above or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board's website at:

<http://www.pestboard.ca.gov/forms/index.shtml>

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: **David Skelton**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **(916) 561-8722**

Fax Number: **(916) 263-2469**

Email Address: david.skelton@dca.ca.gov

The backup contact person is:

Name: **Ronni O'Flaherty**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **(916) 561-8736**

Fax Number: **(916) 263-2469**

Email Address: ronni.oflaherty@dca.ca.gov

**TITLE 16. STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: October 13, 2016

Subject Matter of Proposed Regulation: Company Name Approval

Section Affected: Title 16, California Code of Regulations (CCR), Section 1914

PROBLEM BEING ADDRESSED

Currently, CCR 1914 prohibits the approval of a company name that is the same as the name of a company whose registration has been suspended or revoked. Additionally, CCR 1914 makes the use of a name or telephone number which is the same as a company whose registration has been suspended or revoked a ground for disciplinary action.

The problem the Board intends to address with the proposed regulation is the practice of a company using the name or telephone number of a company whose registration has been surrendered. Currently, when the Board considers the approval of a company name, or finds that a company is using the telephone number of a company whose registration has been surrendered, no explicit language exists for the Board to deny the company name or to pursue disciplinary action.

NECESSITY

The Board feels it is necessary to amend CCR section 1914 in the manner described in the Informative Digest because currently, no enforcement mechanism exists to prevent the approval and use of a name or telephone number of a company who has surrendered their registration.

B&P Code section 8650 states, among other things, that acting in the capacity of a registered company other than the name as set forth upon the registration is a ground for disciplinary action.

In order to more fully implement B&P Code section 8650 the Board feels it is necessary to prevent the use of a name or telephone number of a company who has surrendered their registration and to make the use of a name or telephone number of a company who has surrendered their registration a ground for disciplinary action. This proposed amendment will benefit the health and safety of consumers by increasing openness and transparency in the structural pest control industry and allowing them to make a more informed decision.

SPECIFIC PURPOSE

Amend CCR section 1914:

The specific purpose of the proposed regulation is to increase openness and transparency in the structural pest control industry and strengthen consumer protection by disallowing the issuance of a company registration in the name of a company whose registration has been surrendered and by making the use of the name or telephone number of a company whose registration has been surrendered a ground for disciplinary action.

Additionally, the specific purpose of this regulatory proposal is to further implement B&P Code section 8650 which makes it a ground for discipline to act in the capacity or use the name of a registered company except as set forth upon the license or registration.

Benefits to the Health and Welfare of California Residents, Worker Safety, and Environment

The Board has determined that the proposed regulation will benefit the health and welfare of California residents and the state's environment in the following ways:

By not allowing companies to use the name or telephone number of a company whose registration has been surrendered, transparency in the structural pest control industry is increased and consumers benefit as a result.

UNDERLYING DATA

None

BUSINESS IMPACT

The Board has determined that the proposed regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The Board made this determination because the proposed regulation applies only to companies who have surrendered their registration as a result of facing disciplinary action.

MANDATE ON SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulation does not impose a mandate requiring the use of specific technologies or equipment.

ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed regulation will have no effect on the creation or elimination of jobs within the state. The Board made this determination because the proposed regulation relates to the approval and use of company names and telephone numbers for companies who have surrendered their license and is therefore unrelated to job creation or elimination.

The Board has determined that the proposed regulation will have no effect on the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because the proposed regulation relates to the approval and use of company names and telephone numbers for companies who have surrendered their license and is therefore unrelated to the creation of new businesses or the elimination of existing businesses.

The Board has determined that the proposed regulation will have no effect on the expansion of businesses currently doing business within the state. The Board made this determination because the proposed regulation relates to the approval and use of company names and telephone numbers for companies who have surrendered their license and is therefore unrelated to the expansion of businesses.

The Board has determined that the proposed regulation will benefit the health and welfare of California residents and the state's environment in the following ways:

By not allowing companies to use the name or telephone number of a company whose registration has been surrendered, transparency in the structural pest control industry is increased and consumers benefit.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons or businesses or equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Alternative 1: Continue to have CCR section 1914 remain silent on the issue of the approval and use of the name or telephone number of a company who has surrendered their registration.

Rejected: In order to promote openness and transparency in the structural pest control industry and to increase consumer protection the Board feels it is necessary to prevent the approval and use of a name or telephone number of a company who has surrendered their registration.

TITLE 16. STRCUTURAL PEST CONTROL BOARD

COMPANY NAME APPROVAL

Proposed Language

Amend section 1914 of Division 19, Tile 16, of the California Code of Regulations to read as follows.

§ 1914. Name Style - Company Registration.

No company registration certificate shall be issued in a fictitious name which the board determines is likely to be confused with that of a governmental agency or trade association. No company registration shall be issued in the same name of a firm whose company registration has been suspended, surrendered or revoked unless a period of at least one year has elapsed from the effective date of the suspension, surrender or revocation.

It shall be grounds for disciplinary action for a registered company to use the telephone number and/or name style of a firm whose company registration has been suspended, surrendered or revoked, without the prior written approval of the board.

Note: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8525 and 8650, Business and Professions Code.

TITLE 16. STRUCTURAL PEST CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING

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Any interested person, or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile to the Board at (916) 263-2469 or by email to pestboard@dca.ca.gov. The written comment period closes at **5:00 P.M. on Wednesday, October 12, 2016**. The Board will only consider comments received at the Board Office by that time. Submit comments to:

**David Skelton, Administrative Analyst
Structural Pest Control Board
2005 Evergreen Street, Suite 1500
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With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority granted by Business and Professions (B&P) Code section 8525, and to implement, interpret and make specific Government Code (GC) sections 11425.50(e) and 11519 and B&P Code sections 125.3, 8620, 8635, 8636, 8637, 8638, 8639, 8640, 8641, 8642, 8643, 8644, 8645, 8646, 8646.5, 8647, 8648, 8649, 8650, 8651, 8652, 8653, 8654, 8655, 8657, and 8666, the Board is proposing to amend Title 16, section 1937.11 of the California Code of Regulations (CCR) and "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" (Disciplinary Guidelines) which is incorporated by reference.

INFORMATIVE DIGEST

As currently written, CCR section 1937.11 incorporates by reference a Board publication titled “A Manual of Disciplinary Guidelines and Model Disciplinary Orders (Rev 2010)” (Disciplinary Guidelines) and provides that this publication shall be consulted when the Board considers disciplinary action under the Administrative Procedure Act. Additionally, CCR 1937.11 provides instructions for how and when the provisions of this publication should be applied and when they can be deviated from.

Currently, the Disciplinary Guidelines provide a framework for administering discipline for violations of statutory and regulatory provisions contained in the Structural Pest Control Act, as well model disciplinary orders, and standard and optional probationary conditions.

This proposal would amend CCR 1937.11 and the Disciplinary Guidelines in order to establish more thorough and consistent guidelines for the Board and Administrative Law Judges (ALJ) to consider when administering discipline. The amendments being proposed cover every aspect of the Disciplinary Guidelines beginning with the table of contents, and continuing on with proposed revisions to the penalty guidelines, model disciplinary orders, standard and optional probationary conditions, as well as a cross referencing section for use when choosing which grounds for discipline will be used for a given violation. Additionally, this proposal will update the revision date from 2010, to 2016.

POLICY STATEMENT OVERVIEW

In order to establish consistent standards when it considers the appropriate level of discipline, the Board is proposing to amend CCR 1937.11 and “A Manual of Disciplinary Guidelines and Model Disciplinary Orders”.

The Board anticipates that the proposed amendments will benefit consumers, the pest control industry, as well as the Board itself. The establishment of uniform disciplinary guidelines promotes fairness and social equity and increases transparency in government. Additionally, consumers, worker safety and public health benefit when the Board clearly establishes guidelines for use when a violation occurs.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulation the Board conducted a search for any similar regulations relating to this topic. The Board determined that the proposed regulatory amendments are not inconsistent or incompatible with existing regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs / Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

BUSINESS IMPACT STATEMENT

The Board has determined that the proposed regulation will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

The Board has made this determination because the proposed regulation does not impose any requirements on businesses in California. The proposed regulation is an update to the guidelines the Board uses when it considers discipline and therefore has no adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

The following reporting, record keeping, or other compliance requirements are projected to result from the proposed regulation: None

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Board has determined that the proposed regulation may have a small cost impact for private persons or businesses who face discipline that is administered by the Board.

While the Disciplinary Guidelines do suggest a framework for the level of discipline that is appropriate for a given violation, they are merely guidelines and do not bind the Board or an ALJ to decide on any particular course of action. For this reason, the Board anticipates that the cost impact, if any, is likely to be very small.

The following is a breakdown of the recommended changes to the Penalty Guidelines along with the potential cost impact if the Guidelines were to be followed. Again, the proposed changes do not create a mandate that compels the Board or an ALJ to administer a certain level of discipline.

Section 8635 – The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8636 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8637 – The proposed changes to the minimum penalty add that the optional probation conditions for violation of this section are left to the Board's discretion. The minimum and maximum recommended penalties for this section are outright revocation so the proposed changes are unlikely to have any additional cost impact to a person or business.

Section 8638 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8639 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional 2 years of inspection costs is \$217.92.

Section 8640 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8641 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8642 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional 2 years of inspection costs is \$217.92.

Section 8643 - The proposed changes to the minimum penalty recommend adding a probation term of 4 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for 4 years of inspection costs is \$435.84.

Section 8644 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional 2 years of inspection costs is \$217.92.

Section 8645 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional 2 years of inspection costs is \$217.92.

Section 8648 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8649 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are

conducted. Therefore, the cost impact to reimburse the Board for an additional 2 years of inspection costs is \$217.92.

Section 8651 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8653 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8655 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional 2 years of inspection costs is \$217.92.

Section 8657 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. An existing optional probation condition that is recommended for this section compels the party facing discipline to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for an additional year of inspection costs is \$108.96.

Section 8666 – This code section covers a person or company recommending that excessive work be performed and is being proposed as an addition to the Penalty Guideline section of the Disciplinary Guidelines. The proposed addition includes an optional probation condition that compels the party facing discipline to reimburse the Board for its investigation and enforcement costs. The average cost when the Board is reimbursed for investigation and enforcement related to discipline is \$2,480.

Additionally, the proposed optional probation terms would compel the party being disciplined to complete continuing education courses. The cost impact of completing continuing education courses varies but usually ranges from \$100-\$300.

All Other Violations – This proposed addition to the Penalty Guidelines covers all violations that are not specifically mentioned elsewhere in the Penalty Guidelines. The proposed addition of the minimum penalty recommends a stayed suspension and a probationary term of 3 years. The proposed optional probation conditions are left to the Board's discretion but it is likely that the person or business facing discipline would be compelled to reimburse the Board its costs for the performance of inspections. The Board's costs to perform inspections are \$27.24 per hour with the average length of inspection being 1 hour. During a probation term, quarterly inspections are conducted. Therefore, the cost impact to reimburse the Board for 3 years of inspection costs is \$326.88.

In addition to the cost impact resulting from the proposed revisions to the Penalty Guidelines, there is a proposed addition that recommends adding Cost Recovery to the Standard Terms and Conditions of Probation section of the Disciplinary Guidelines. Cost Recovery compels the party facing discipline to reimburse the Board for its costs to investigate and pursue discipline. These costs vary significantly depending on the complexity of the case. The cost impact to a person or business of adding Cost Recovery as a standard probationary term can range from \$500 to \$20,000 with the average being \$2480. However, although Cost Recovery is being added as a Standard Term of Probation, it has already been in use under existing statutory authority and therefore is not an additional cost resulting from the proposed changes.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed regulatory action will have no impact on the creation or elimination of jobs within the state. The Board made this determination because although the Disciplinary Guidelines suggest a framework for the level of discipline that is appropriate for a given violation, they are merely guidelines and do not bind the Board or an ALJ to decide on any particular course of action. The proposed changes are unlikely to lead to an increase in the level of discipline administered for a given violation and would therefore have no impact on the creation or elimination of jobs with the state.

The Board has determined that the proposed regulatory action will have no effect on the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because although the Disciplinary Guidelines suggest a framework for the level of discipline that is appropriate for a given violation, they are merely guidelines and do not bind the Board or an ALJ to decide on any particular course of action. The proposed changes are unlikely to lead to an increase in the level of discipline administered for a given violation and would therefore have no impact on the creation of new businesses or the elimination of existing businesses within the state.

The Board has determined that the proposed regulatory action will have no effect on the expansion of businesses currently doing business within the state. The Board made this determination because although the Disciplinary Guidelines suggest a framework for the level of discipline that is appropriate for a given violation, they are merely guidelines and do not bind the Board or an ALJ to decide on any particular course of action. The proposed changes are unlikely to lead to an increase in the level of discipline administered for a given violation and would therefore have no impact on the expansion of businesses currently doing business within the state.

The Board has determined that the proposed regulatory action will benefit the health of welfare of California's residents, worker safety, and the state's environment in the following ways:

By establishing uniform Disciplinary Guidelines the Board promotes the safe and effective practice of structural pest control. The health and welfare of California residents as well as the state's environment and worker safety benefit when the Board clearly outlines the penalties for practicing structural pest control unlawfully.

BUSINESS REPORTING REQUIREMENT STATEMENT

The Board has determined that the proposed regulation will not create a reporting requirement for businesses. The Board made this determination because there is nothing contained in the proposed revisions that would create a new reporting requirement.

EFFECT ON HOUSING COSTS

The Board has determined that the proposed regulation will have no effect on housing costs. The Board made this determination because the regulatory effect of the proposal is not relevant to housing costs.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation will have no effect on small businesses. The Board made this determination because although the Disciplinary Guidelines suggest a framework for the level of discipline that is appropriate for a given violation, they are merely guidelines and do not bind the Board or an ALJ to decide on any particular course of action. The proposed changes are unlikely to lead to an increase in the level of discipline administered for a given violation and would therefore have no impact on small businesses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost

effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board's office located at, 2005 Evergreen Street, Suite 1500, Sacramento, California, 95815, or by visiting the Board's website at <http://www.pestboard.ca.gov/forms/index.shtml>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of David Skelton at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board's website at:

<http://www.pestboard.ca.gov/forms/index.shtml>

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: **David Skelton**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **916-561-8722**

Fax Number: **916-263-2469**

Email Address: david.skelton@dca.ca.gov

The backup contact person is:

Name: **Ronni O'Flaherty**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **916-561-8700**

Fax Number: **916-263-2469**

Email Address: ronni.oflaherty@dca.ca.gov

Website access: Materials regarding this proposal can be found at the Board's website at <http://www.pestboard.ca.gov/forms/index.shtml>.

**TITLE 16. STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: October 13, 2016

Subject Matter of Proposed Regulation: Disciplinary Guideline Revisions

Section Affected: Title 16, California Code of Regulations, Section 1937.11

PROBLEM BEING ADDRESSED

In proposing to update California Code of Regulations (CCR) Section 1937.11 and “A Manual of Disciplinary Guidelines and Model Disciplinary Orders” (Disciplinary Guidelines) the Board is amending the uniform standards that are considered when persons or businesses go through the disciplinary process. While the Disciplinary Guidelines as currently written provide consistency there are sections where they could be more thorough. With the revisions being proposed here the Board is seeking to address the problem of its Disciplinary Guidelines failing to provide enough guidance in certain areas.

NECESSITY

The Board has determined that in order to effectively address the problem identified above, it is necessary to revise its Disciplinary Guidelines.

The purpose of the Board creating Disciplinary Guidelines was to promote consistency and equity when persons or businesses go through the disciplinary process. While the Disciplinary Guidelines have largely accomplished that goal, it is now necessary to amend them in the areas that have been determined to be lacking.

In order to update existing guidelines and add new recommendations where appropriate, it is necessary for the Board to amend the Disciplinary Guidelines and Title 16, Section 1937.11 where they are incorporated by reference.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL

Amend Section 1937.11 and the Disciplinary Guidelines, which are incorporated by reference.

The proposed amendments to the Disciplinary Guidelines are extensive. Below is an examination of the specific purpose for each proposed change both to the text of Section 1937.11 and the Disciplinary Guidelines, which are incorporated by reference.

CCR 1937.11

The revision date for the Disciplinary Guidelines is amended from 2010 to 2016 to accurately reflect the time period for the amendments being proposed here.

Additionally, section 11425.50(e) of the Government Code (GC) is being removed as an authority section in order to accurately cite the authority for this regulatory proposal.

Lastly, section 11519 of the Government Code (GC) and sections 125.3 and 8666 of the Business and Professions (B&P) Code are being added as reference sections to include all the statutes that are being implemented, interpreted, or made specific by this proposal.

Disciplinary Guidelines, Page 1

The date is being changed from 2010 to 2016 in order to accurately reflect the most recent update to the Disciplinary Guidelines.

Disciplinary Guidelines, Page 2

No changes

Disciplinary Guidelines, Page 3

The index is being updated to accurately reflect the proposed changes to the Disciplinary Guidelines. The page numbers that are shown will be accurate in the final document when the items that the Board is proposing to remove are not displayed in strikethrough.

Disciplinary Guidelines, Page 4

The index is being updated to accurately reflect the proposed changes to the Disciplinary Guidelines. The page numbers that are shown will be accurate in the final document when the items that the Board is proposing to remove are not displayed in strikethrough.

Disciplinary Guidelines, Page 5

The purpose of the proposed changes to the Introduction in the Disciplinary Guidelines is to more clearly state what the Disciplinary Guidelines are and when and how it is appropriate for them to be used. GC Section 11425.50(e) provides that a guideline may not be used as a penalty unless it has been adopted as a regulation.

Disciplinary Guidelines, Page 6

Generally, the purpose of the proposed revisions to the Penalty Guidelines is to amend the recommended penalties for given violations in order to more effectively implement the statute on which the guideline is based. In all cases, the GC section 11425.50(e) mandate that a penalty may not be based on a guideline unless it has been adopted as a regulation is being implemented by the proposed amendments to the Penalty Guidelines. The purpose of each amendment is examined in more specificity below.

Section 8635 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8635 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8636 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8636 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8637 - The proposed changes to this section recommend adding that any optional probation conditions for a violation of this section be left to the Board's discretion. Currently, there are no recommended optional probation conditions for a violation of this section because both the minimum and maximum recommended penalty for a misrepresentation of a material fact in obtaining a license or registration is outright revocation. In order to more effectively implement B&P Code section 8637 the Board feels it is necessary to clearly state that any optional probation conditions are left to its discretion.

Additionally, the optional probationary conditions attached to both the minimum and maximum recommended penalties are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8638 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8638 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8639 – The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. In order to more effectively implement B&P Code section 8639 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 5 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the proposed changes to the minimum penalty recommend a stayed revocation rather than a stayed suspension. Because of the potential for harm to consumers when a violation of this section occurs, the Board feels that stayed revocation is a more appropriate penalty than a stayed suspension.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8640 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8640 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the proposed changes to the minimum penalty recommend a stayed revocation rather than a stayed suspension. Because of the potential for harm to consumers when a violation of this section occurs, the Board feels that stayed revocation is a more appropriate penalty than a stayed suspension.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8641 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8641 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8642 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. In order to more effectively implement B&P Code section 8642 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 5 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the proposed changes to the minimum penalty recommend a stayed revocation rather than a stayed suspension. Because of the potential for harm to consumers when a violation of this section occurs, the Board feels that stayed revocation is a more appropriate penalty than a stayed suspension.

Additionally, the proposed changes to the minimum penalty recommend including optional probation condition 27. Optional probation condition 27 prohibits the person facing discipline from having an ownership stake in a structural pest control business during their disciplinary term. The specific purpose of recommending that optional probation condition 27 be included in the minimum penalty guidelines is to prevent the person facing discipline from attempting to elude the appropriate discipline by opening up another business.

Lastly, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Disciplinary Guidelines, Page 7

Below, the specific purpose of the revisions to the Penalty Guidelines is continued.

Section 8643 - The proposed changes to the minimum penalty recommend a probation term of 4 years. In order to more effectively implement B&P Code section 8643 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8644 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. In order to more effectively implement B&P Code section 8644 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 5 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the proposed changes to the minimum penalty recommend a stayed revocation rather than a stayed suspension. Because of the potential for harm to consumers when a violation of this section occurs, the Board feels that stayed revocation is a more appropriate penalty than a stayed suspension.

Lastly, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8645 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. In order to more effectively implement B&P Code section 8645 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 5 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the proposed changes to the minimum penalty recommend a stayed revocation rather than a stayed suspension. Because of the potential for harm to consumers when a violation of this section occurs, the Board feels that stayed revocation is a more appropriate penalty than a stayed suspension.

Lastly, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8646 - The optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8646.5 - The optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended,

the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Disciplinary Guidelines, Page 8

Below, the specific purpose of the revisions to the Penalty Guidelines is continued.

Section 8647 - The optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8648 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8648 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Section 8649 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. In order to more effectively implement B&P Code section 8649 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 5 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8650 - The optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8651 - The optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8651 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Section 8652 - The optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8653 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8653 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8654 - The optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8655 - The proposed changes to the minimum penalty recommend a probation term of 5 years rather than 3 years. In order to more effectively implement B&P Code section 8655 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 5 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Disciplinary Guidelines, Page 9

Below, the specific purpose of the revisions to the Penalty Guidelines is continued.

Section 8657 - The proposed changes to the minimum penalty recommend a probation term of 4 years rather than 3 years. In order to more effectively implement B&P Code section 8657 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, the proposed changes to the minimum penalty recommend a stayed revocation rather than a stayed suspension. Because of the potential for harm to consumers when a

violation of this section occurs, the Board feels that stayed revocation is a more appropriate penalty than a stayed suspension.

Lastly, the optional probationary conditions are being renumbered. This renumbering does not reflect a change in the optional probationary conditions that are being recommended, the change is due to optional probationary conditions being added and causing all probationary conditions to be renumbered.

Section 8666 – The purpose of the proposed addition of this section to the Penalty Guidelines is to more fully implement B&P Code section 8666. This section makes the performance or recommendation of work which the licensee knows to be in excess of what is required to eliminate the condition for which the licensee was employed an unlawful public offense. The Board feels that it is appropriate to create uniform guidelines to be used in disciplinary process when a violation of this section occurs.

The proposed addition to the minimum penalty recommends a probation term of 4 years. In order to more effectively implement B&P Code section 8666 the Board feels that the minimum penalty for a violation of this section should include a probationary term of 4 years. A probationary term of this length allows the Board to closely monitor the person or business who committed the violation for an extended period of time.

The proposed addition to the optional probation conditions recommends optional probation conditions 20, 21, 22, 23, and 25. Please see below for an explanation of what these conditions are and the purpose of their recommendation.

Optional Probation Conditions 20, 21, and 22: These 3 optional probation conditions are continuing education courses specific to the branch or branches of pest control practiced by the party facing discipline. The purpose of recommending these as conditions of probation is so the person facing discipline can gain the proper education to ensure the lawful practice of structural pest control.

Optional Probation Condition 23: This optional probation condition compels the party facing discipline to reimburse the Board for the random inspections that will occur during the probationary term. The purpose of recommending this as an optional condition of probation is so that the Board does not have to absorb the cost of ensuring that the person or business is complying with the terms of their probation.

Optional Probation Condition 25: This optional probation condition compels the party facing discipline to pay restitution to the consumer who was harmed by the person or business facing discipline. The purpose of recommending this as an optional condition of probation is to fulfill the Board's primary mission of consumer protection pursuant to B&P Code section 8520(c) and to ensure that the party responsible for the violation is held responsible for making the consumer whole.

Lastly, the proposed addition to the maximum penalty recommends revocation and optional probation condition 27. The purpose of recommending revocation is to ensure that the party facing discipline can no longer practice structural pest control. Optional probation condition 27 prohibits the person facing discipline from having an ownership stake in a structural pest control business during their disciplinary term. The specific purpose of recommending that optional probation condition 27 be included in the maximum penalty guidelines is to prevent the person facing discipline from attempting to elude the appropriate discipline by opening up another business.

Violation of Probation - The proposed changes to the minimum penalty recommend an extension to the probation term of 1 to 5 years. This section of the Penalty Guidelines covers instances when probation stemming from previously imposed discipline has been violated. In order to more fully implement the code section which was violated and lead to the probationary term, the Board feels that the minimum penalty for a violation of probation should include an extension to the probationary term of 1 to 5 years. A longer probationary term allows the Board to closely monitor the person or business who committed the violation for a longer period of time.

Additionally, a proposed addition to the optional probation conditions leaves the inclusion of any optional probation conditions to the discretion of the Board. Currently, the optional probation conditions for this section are blank so the purpose of the addition is to clearly state that if a violation of probation is to occur that the Board has discretion to impose additional optional conditions of probation.

All Other Violations – The purpose of this proposed addition to the Penalty Guidelines is to create uniform standards for violations that are not otherwise covered in the Disciplinary Guidelines.

The proposed addition to the minimum penalty recommends a stayed suspension and a 3 year probationary term. The purpose of these recommendations is to more fully implement the GC section 11425.50(e) and to create, general, uniform disciplinary standards when violations occur.

Additionally, the proposed addition to the optional probation conditions leaves the inclusion of any optional probation conditions to the discretion of the Board. The purpose of the addition is to clearly state that if a violation occurs the Board has discretion to impose optional conditions of probation.

Lastly, the proposed addition to the maximum penalty recommends revocation and optional probation condition 27. The purpose of recommending revocation is to ensure that the party facing discipline can no longer practice structural pest control. Optional probation condition 27 prohibits the person facing discipline from having an ownership stake in a structural pest control business during their disciplinary term. The specific purpose of recommending that optional probation condition 27 be included in the maximum penalty guidelines is to prevent the person

facing discipline from attempting to elude the appropriate discipline by opening up another business.

Disciplinary Guidelines, Page 10

The title of this section of the Disciplinary Guidelines has been amended to accurately reflect the material that has been added.

Currently, this section of the Disciplinary Guidelines provides 11 factors to be considered when deciding on the minimum, maximum, or an intermediate penalty. The proposed changes eliminate those 11 factors and add Factors in Aggravation, Factors in Mitigation, and Matters in Extenuation that are meant to be considered when deciding on revocation, suspension, or probation. The purpose of these additions is to provide more thorough guidance on which factors should be considered when making a decision on the level of discipline a person or business should face for the violation of a section, or sections, listed in the Penalty Guidelines.

For reference, the proposed addition of factors in aggravation and mitigation are listed below as well the matters in extenuation.

Factors in Aggravation

Nature and severity under consideration.

Actual or potential harm to the public or any consumer.

Pending and final records of any cause of action from any investigation, hearing, or court of competent jurisdiction in this state or any other venue.

Conduct was knowing, willful, reckless, or negligent.

Whether financially motivated.

Involved fraud, misrepresentation and/or dishonesty.

Whether a pattern of practice.

Length of time passed since the act or omission.

Length and seriousness of the administrative, civil or criminal record.

Negative status of any administrative, civil or criminal probation, or of any criminal parole imposed, regardless of venue.

Compliance with, including but not exclusive to, restitution, fines or community service lawfully imposed in this state or any other venue.

In addition, the language regarding the Board not intending on any one of the factors to be required to justify the minimum or maximum penalty had been amended to reflect the elimination of the 11 factors and the addition of factors in aggravation and factors in mitigation. Further, the language was amended to reflect the Board's intent of not using one or a combination of the factors in aggravation and in mitigation to justify the degree of discipline to be imposed.

Factors in Mitigation

Satisfaction of any lawfully imposed sanctions or other conditions including, but not exclusive to, restitution, fines or compliance arising from any cause of action.

Participation and completion of training, counseling or rehabilitation programs.

No prior disciplinary actions.

Not a pattern of practice.

Evidence of substantial measures to prevent the occurrence of future violations.

Neither willful, reckless, or negligent.

The public or any consumer was not actually or potentially harmed.

The length of time passed since the act or omission, or completion of probation, or completion of parole.

No prior criminal record.

If applicable, evidence of expungement proceedings or dismissal pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

Other relevant evidence of rehabilitation.

Matters in Extenuation

Circumstances deemed beyond one's direction or control.

Degree of knowledge and/or participation constituting cause for discipline.

Coercion or oppression.

Incapacitation, physical or mental condition.

Disciplinary Guidelines, Page 11

Generally, the specific purpose of each of the proposed changes to the Standard Terms and Conditions of Probation is to implement GC section 11519 which provides that the Board may specify just and reasonable conditions of probation that are appropriate in light of the findings and decision. Further individual explanation of the purpose of each change to the Standard Terms and Conditions of Probation are below.

The proposed changes to item C in the Standard Terms of Probation adds that probation will be tolled should a licensee be suspended, surrender their license, fail to renew their license, or inactivate their license. The purpose of this addition is to make clear that a probationary term is to be served while the person or business is practicing structural pest control and can actively be monitored by the Board to ensure compliance.

The proposed changes to items G and H in the Standard Terms of Probation switch the order of the current terms and are not a change with any regulatory effect.

The proposed addition of item I in the Standard Terms of Probation adds cost recovery. The purpose of this change is to implement B&P Code section 125.3 which states in part that an administrative law judge may direct a licensee to pay a sum not exceeding the reasonable costs of the investigation and enforcement of the case.

The proposed addition of item J in the Standard Terms of Probation adds that the licensee facing discipline consents to be interviewed and/or make their records available to be inspected by the Board or its designee. The purpose of this addition is to ensure the Board can properly monitor the party facing discipline.

The proposed addition of item K in the Standard Terms of Probation adds that the party facing discipline, if for some reason becomes unable to comply with the terms of their probation, may surrender their license. The purpose of this addition is to allow the Board, and the party facing discipline to avoid going through additional disciplinary proceedings should the party wish to surrender their license.

The proposed changes to the Optional Terms and Conditions of Probation consist solely of a renumbering due to the additions to the Standard Terms and Conditions of Probation section. These changes have no regulatory effect.

Disciplinary Guidelines, Page 12

The renumbering of the Optional Terms and Conditions of Probation is continued. These changes have no regulatory effect.

In the Model Disciplinary Orders section, suggested language is provided for each disciplinary order that is included in a decision. Generally, the purpose of the proposed changes to the Model Disciplinary Orders is to clearly state what each disciplinary order entails. Further individual explanation of the purpose for each change to the Model Disciplinary Orders is below.

Model Number 1, Revocation – Single Cause

Here, the Applicator license is being added to the suggested single cause revocation language. The purpose of this addition is to more fully implement B&P Code section 8620 by including suggested language for instances when Applicators face revocation for a single cause of discipline.

Model Number 2, Revocation – Multiple Causes

Here, the Applicator license is being added to the suggested multiple causes revocation language. The purpose of this addition is to more fully implement B&P Code section 8620 by including suggested language for instances when Applicators face revocation for multiple causes of discipline.

Disciplinary Guidelines, Page 13

Model Number 3, Suspension – Single Cause

Here, language is being added to make clear that when a suspension is imposed, it is to be served beginning on the effective date of the decision and also, to be served in consecutive days. The purpose of this addition is to more fully implement B&P Code section 8620 by specifying certain aspects about suspensions.

Additionally the Applicator license is being added to the suggested single cause suspension language. The purpose of this addition is to more fully implement B&P Code section 8620 by including suggested language for instances when Applicators face suspension for a single cause of discipline.

Model Number 4, Suspension – Multiple Causes

Here, language is being added to make clear that when a suspension is imposed, it is to be served beginning on the effective date of the decision and also, to be served in consecutive days. The purpose of this addition is to more fully implement B&P Code section 8620 by specifying certain aspects about suspensions.

Additionally the Applicator license is being added to the suggested multiple causes suspension language. The purpose of this addition is to more fully implement B&P Code section 8620 by including suggested language for instances when Applicators face suspension for multiple causes of discipline.

Lastly, the in the title of this section, the words “run concurrently” are being removed. This change does not affect the language in the model itself and therefore has no regulatory effect.

Model Number 5, Suspension – Multiple Causes

Here, language is being added to make clear that when a suspension is imposed, it is to be served beginning on the effective date of the decision and also, to be served in consecutive days. The purpose of this addition is to more fully implement B&P Code section 8620 by specifying certain aspects about suspensions.

Additionally the Applicator license is being added to the suggested multiple causes suspension language. The purpose of this addition is to more fully implement B&P Code section 8620 by including suggested language for instances when Applicators face suspension for multiple causes of discipline.

Lastly, the words “run consecutively” are being removed from the title of this section. This change does not affect the language in the model itself and therefore has no regulatory effect.

Model Number 6, Standard Stay Order

There are no changes to this model number.

Disciplinary Guidelines, Page 14

Specific explanations for the proposed changes to the Model Disciplinary Orders continues below.

Model Number 7, Probation

Here, language is being added for suggested use when probation is imposed after a stayed suspension or revocation. The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when probation as imposed.

Additionally, language is being added for instances when the probation term is 4, or 5 years. Currently, the suggested language in this model number only provides suggested language for probation terms of 3 years. The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when probation as imposed.

Model Number 8, Obey All Laws

Here, language is added specifying that the party facing discipline shall obey all federal, state, and local laws. The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Additionally, language is added to require that the party facing discipline has a Livescan criminal history record check performed unless they have already done so as part of the initial licensing process. The purpose of this addition is to ensure that the Board is aware of any possible criminal activity the party facing discipline has engaged in, or might subsequently engage in, in order to ensure compliance with this term of probation.

Additionally, this proposed language more fully implements GC section 11519 by specifying language to be used when this term of probation as imposed.

Model Number 9, Quarterly Reports

Here, language is added specifying that the quarterly reports that are currently required during a probationary term, be filed within 10 days after the end of each quarter. The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Model Number 10, Tolling of Probation

Here, language is added specifying that periods spent out of state that are longer than 30 days, or periods when a license has been surrendered, suspended, or placed on inactive status, shall not reduce the probationary term. The purpose of this addition is to make clear that a probationary term is to be served while the person or business is practicing structural pest control and can actively be monitored by the Board to ensure compliance.

Additionally, this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Disciplinary Guidelines, Page 15

Specific explanations for the proposed changes to the Model Disciplinary Orders continues below.

Model Number 11, Notice to Employers

Here, language is added specifying the persons who must be notified to satisfy the requirement that the party on probation notify their employer. The purpose of this addition is to ensure that employers are aware of the disciplinary history of their employee.

Additionally, the purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Model Number 12, Notice to Employees

Here, language is added specifying that a notice that accurately recites the terms of conditions be placed in a conspicuous place, and remain there for the term of probation, where employees can see it. The purpose of this addition is to ensure that employees are aware of the disciplinary history of their employer.

Additionally, the purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Model Number 13, Posted Notice of Suspension

There are no changes to this model number.

Model Number 14, Completion of Probation

There are no changes to this model number.

Model Number 15, Violation of Probation

Here, language is added specifying that in addition to a petition to revoke probation, if the Board files an accusation, or statement of issues, or if the respondent requests a hearing to be conducted pursuant to section 11500 of the GC, that the Board shall have continuing jurisdiction until the matter is final and the [period of probation shall be extended until the matter is final.

The purpose of this addition is to more fully implement GC section 11519 by clarifying the scenarios under which the Board retains continuing jurisdiction should a violation of probation occur.

Disciplinary Guidelines, Page 16

Specific explanations for the proposed changes to the Model Disciplinary Orders continues below.

Model Number 16, Cost Recovery

Here, language is added specifying that the party facing discipline shall reimburse the Board for the enforcement and investigation costs related to the case. Additionally, language is added specifying when and how the costs shall be reimbursed.

The purpose of this change is to implement B&P Code section 125.3 which states in part that an administrative law judge may direct a licentiate to pay a sum not exceeding the reasonable costs of the investigation and enforcement of the case.

Additionally, the purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation is imposed.

Model Number 17, Interview / Records: Board Or Its Designees

Here language is added specifying that the licensee facing discipline consents to be interviewed and/or make their records available to be inspected by the Board or its designee. The purpose of this addition is to ensure the Board can properly monitor the party facing discipline.

Additionally, the purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation is imposed.

Model Number 18, License Surrender

Here, language is added specifying that the party facing discipline, if for some reason becomes unable to comply with the terms of their probation, may surrender their license. The purpose of this addition is to allow the Board, and the party facing discipline to avoid going through additional disciplinary proceedings should the party wish to surrender their license.

Additionally, the purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation is imposed.

Disciplinary Guidelines, Page 17

Specific explanations for the proposed changes to the Model Disciplinary Orders continues below.

Model Number 19, Actual Suspension

Here, language is being added to make clear that when a suspension is imposed, it is to be served beginning on the effective date of the decision and also, to be served in consecutive days. The purpose of this addition is to more fully implement B&P Code section 8620 by specifying certain aspects about suspensions.

Additionally the Applicator license is being added to the suggested actual suspension language. The purpose of this addition is to more fully implement B&P Code section 8620 by including suggested language for instances when Applicators face suspension.

Model Number 20, Continuing Education Course – Branch 1

Here, language is added specifying the time period by which continuing education mandated by probation be completed as well as a statement making clear that continuing education mandated by probation is in addition to any continuing education needed for license renewal requirements.

The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Model Number 21, Continuing Education Course – Branch 2

Here, language is added specifying the time period by which continuing education mandated by probation be completed as well as a statement making clear that continuing education mandated by probation is in addition to any continuing education needed for license renewal requirements.

The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Model Number 22, Continuing Education Course – Branch 3

Here, language is added specifying the time period by which continuing education mandated by probation be completed as well as a statement making clear that continuing education mandated by probation is in addition to any continuing education needed for license renewal requirements.

The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Model Number 23, Random Inspections

There are no changes to this model number.

Model Number 24, Inspection Fees

There are no changes to this model number.

Model Number 25, Reimbursement to Consumer

There are no changes to this model number.

Model Number 26, Prohibited From Serving as Officer, Director, Associate, Partner, or Qualifying Manager

Here, language is added prohibiting the respondent from serving as a “responsible managing employee”. This purpose of this addition is to more clearly state which positions the respondent is prohibited from serving in during probation.

Additionally, the purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation as imposed.

Model Number 27, No Interest In Any Registered Company

There are no changes to this model number.

Model Number 28, Take and Pass Licensure Examinations

Here, the Applicator license is being added to the suggested licensure examinations language. The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation is imposed.

Additionally, language is added that specifies that if the respondent fails to pass the examination within a given time period, he or she shall notify the Board and cease practice until the examination has been passed. The purpose of this addition is to more fully implement GC section 11519 by specifying language to be used when this term of probation is imposed.

Disciplinary Guidelines, Pages 20-22

These pages of the Disciplinary Guidelines are a reference tool used to identify the proper disciplinary statutes when a violation occurs. The purpose of the changes to these pages is to update the cross references and ensure that violations are being matched correctly with the Board's disciplinary statutes.

ANTICIPATED BENEFITS OF THIS REGULATORY ACTION

The Board anticipates that the proposed regulatory action will benefit consumers, the pest control industry, as well as the Board itself. The establishment of uniform disciplinary guidelines promotes fairness and social equity and increases transparency in government. Additionally, consumers, worker safety and public health benefit when the Board clearly establishes guidelines that will be used if a violation of the law occurs.

UNDERLYING DATA

1. Structural Pest Control Board Internal Recovery Costs Memorandum, April 18, 2016
2. Structural Pest Control Board Average Number of Companies and Licensees Going Through the Disciplinary Process Memorandum, April 26, 2016

BUSINESS IMPACT

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The Board has determined that no significant economic impact will result from the proposed regulation. The Board has made this determination because the proposed regulation contains revisions to the Board's Disciplinary Guidelines and therefore will affect only those business

who face discipline for violating the law. While it is possible that the businesses who face Board discipline will be impacted economically by some of the recommendations, the total number of such businesses is expected to very small and would therefore not be considered a significant adverse impact.

ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed regulatory action will have no impact on the creation or elimination of jobs within the state. The Board made this determination because although the Disciplinary Guidelines suggest a framework for the level of discipline that is appropriate for a given violation, they are merely guidelines and do not bind the Board or an ALJ to decide on any particular course of action. The proposed changes are unlikely to lead to an increase in the level of discipline administered for a given violation and would therefore have no impact on the creation or elimination of jobs with the state.

The Board has determined that the proposed regulatory action will have no effect on the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because although the Disciplinary Guidelines suggest a framework for the level of discipline that is appropriate for a given violation, they are merely guidelines and do not bind the Board or an ALJ to decide on any particular course of action. The proposed changes are unlikely to lead to an increase in the level of discipline administered for a given violation and would therefore have no impact on the creation of new businesses or the elimination of existing businesses within the state.

The Board has determined that the proposed regulatory action will have no effect on the expansion of businesses currently doing business within the state. The Board made this determination because although the Disciplinary Guidelines suggest a framework for the level of discipline that is appropriate for a given violation, they are merely guidelines and do not bind the Board or an ALJ to decide on any particular course of action. The proposed changes are unlikely to lead to an increase in the level of discipline administered for a given violation and would therefore have no impact on the expansion of businesses currently doing business within the state.

The Board has determined that the proposed regulatory action will benefit the health of welfare of California's residents, worker safety, and the state's environment in the following ways:

By establishing uniform Disciplinary Guidelines the Board promotes the safe and effective practice of structural pest control. The health and welfare of California residents as well as the state's environment and worker safety benefit when the Board clearly outlines the penalties for practicing structural pest control unlawfully.

MANDATE ON SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons or businesses or equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Alternative 1: Leave the disciplinary guidelines unchanged.

Rejected: The Disciplinary Guidelines as currently constructed have been found to be lacking in certain areas. In order to fully implement GC section 11425.50 which mandates that no penalty may be based on a guideline unless it has been adopted as a regulation, the Board has determined that it necessary to update the Disciplinary Guidelines.

TITLE 16. STRUCTURAL PEST CONTROL BOARD

DISCIPLINARY GUIDELINES REVISIONS

PROPOSED LANGUAGE

§ 1937.11. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" [Rev. 2010~~6~~] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board and/or administrative law judges in its/his or her discretion determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Section 8525, Business and Professions Code, ~~Section 11425.50(e), Government Code~~. Reference: Section 11425.50(e), 11519 Government Code, and Sections 125.3 8620, 8635, 8636, 8637, 8638, 8639, 8640, 8641, 8642, 8643, 8644, 8645, 8646, 8646.5, 8647, 8648, 8649, 8650, 8651, 8652, 8653, 8654, 8655 ~~and~~ 8657, and 8666 Business and Professions Code.

TITLE 16. STRUCTURAL PEST CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board (Board) is proposing to take action as described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Department of Consumer Affairs
Hearing Room
2005 Evergreen Street
Sacramento, CA 95815
October 13, 2016
9:00 A.M.**

Any interested person, or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile to the Board at (916) 263-2469 or by email to pestboard@dca.ca.gov. The written comment period closes at **5:00 P.M. on Wednesday, October 12, 2016**. The Board will only consider comments received at the Board Office by that time. Submit comments to:

**David Skelton, Administrative Analyst
Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority granted by Business and Professions (B&P) Code Section 8525 and to implement, interpret, or make specific B&P Code Sections 8514 and 8516 the Board is considering the amendment of California Code of Regulations (CCR), Title 16, section 1993.2, the repeal of CCR section 1993.3, and the addition of CCR section 1993.4.

INFORMATIVE DIGEST

Currently, CCR sections 1993.2 and 1993.3 define "in-ground bait station", "above-ground bait station", and "in-ground termite monitoring system" and outline provisions for how these products may be used.

Additionally, CCR section 1993.2 states that a full or limited inspection of the structure must be made prior to the installation of any termite system.

Lastly CCR section 1993.3 states that the use of any termite bait or monitoring system shall be considered a control service agreement as defined in B&P Code section 8516.

This regulatory proposal would make changes to differentiate between baiting and monitoring systems and create unique guidelines for when, and how each may be used.

Specifically, for termite bait stations, this regulatory proposal would retain the requirement that a full or limited inspection must be made prior to their installation, and that their use is to be considered a control service agreement as defined in B&P Code section 8516.

Additionally, this regulatory proposal would allow termite monitoring devices to be used without entering into a control service agreement and without a full or limited inspection having been performed.

Policy Statement Overview / Anticipated Benefits of the Proposed Regulation

The Board anticipates that the proposed regulation will benefit consumers by establishing more appropriate guidelines for both termite baiting and termite monitoring stations. Currently, termite monitoring systems cannot be installed unless it is under the terms of a control service agreement and a company first performs a full or limited inspection of the structure. The Board believes these requirements are not appropriate for devices that do not contain any pesticides and are merely intended to monitor the possible presence or absence of termites. By removing these requirements, the Board feels consumers will benefit by having the option to utilize termite monitoring stations without the cost burden associated with a control service agreement and a full or limited inspection.

Consistency and Compatibility With Existing State Regulations:

During the process of developing the proposed regulation the Board conducted a search for any similar regulations relating to this topic. The Board determined that the proposed regulatory action is not inconsistent or incompatible with existing regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact Statement

The Board has determined that the proposed regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The Board made this determination because the proposed regulation imposes no new requirements or restrictions on California businesses. The proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will not affect the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will not affect the expansion of businesses currently doing business within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will benefit the health of welfare of California's residents, worker safety, and the state's environment in the following ways:

The health and welfare of California residents will benefit from the proposed regulation by being able to utilize termite monitoring devices without having to endure the cost impact of a full or limited inspection of their structure or the cost of a control service agreement.

EFFECT ON HOUSING COSTS

The Board has determined that the proposed regulation will have no effect on housing costs. The Board made this determination because the proposed regulation is not relevant to housing costs.

BUSINESS REPORTING REQUIREMENT STATEMENT

The Board has determined that the proposed regulation will not create a reporting requirement for businesses.

EFFECT ON SMALL BUSINESS

The proposed regulation will have no effect on small businesses because it imposes no new requirements or restrictions.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board's office located at, 2005 Evergreen Street, Suite 1500, Sacramento, California, 95815, or by visiting the Board's website at <http://www.pestboard.ca.gov/forms/index.shtml>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of David Skelton at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board's website at:

<http://www.pestboard.ca.gov/forms/index.shtml>

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: **David Skelton**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **(916) 561-8722**

Fax Number: **(916) 263-2469**

Email Address: david.skelton@dca.ca.gov

The backup contact person is:

Name: **Ronni O'Flaherty**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **(916) 561-8736**

Fax Number: **(916) 263-2469**

Email Address: ronni.oflaherty@dca.ca.gov

Website access: Materials regarding this proposal can be found at the Board's website at <http://www.pestboard.ca.gov/forms/index.shtml>.

**TITLE 16. STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: October 13, 2016

Subject Matter of Proposed Regulation: Termite Stations

Sections Affected: California Code of Regulations (CCR), Title 16, Sections 1993.2, 1993.3, 1993.4

PROBLEM BEING ADDRESSED

Currently, CCR section 1993.2 provides that prior to the installation of any termite baiting or monitoring station a full or limited inspection of the structure must be performed. Additionally, CCR 1993.3 provides that the installation of any baiting or monitoring system shall be considered a control service agreement subject to the provisions of Business and Professions (B&P) Code section 8516.

In practice, a consumer who wishes to have a non-pesticidal termite monitoring system installed must first pay to have a full or limited inspection performed and additionally, enter into a control service agreement with the registered company installing the system. The Board has determined that in order to address this problem it is necessary to amend CCR section 1993.2, repeal CCR section 1993.3 and add CCR section 1993.4 in order to draw a distinction between termite baiting and monitoring stations and outline provisions for when and how each may be used.

NECESSITY

Currently, CCR section 1993.2 is titled, "Termite Bait Station" and defines "above-ground bait station", "in-ground bait station", and "in-ground termite monitoring system". Additionally, CCR section 1993.2 mandates that prior to the installation of any of these systems a full or limited inspection of the structure shall be performed.

CCR section 1993.3 states the use of the any in-ground termite monitoring and/or baiting systems shall be considered a control service agreement as defined in B&P Code section 8516.

The existing language of the above two regulations would require a consumer to pay for a control service agreement, even though that service may not be needed, to obtain a non-pesticide termite monitoring system. As such, the Board feels that these definitions and provisions are not appropriate as they no longer serve the best interest of consumers. Therefore, it is necessary for the Board to amend CCR section 1993.2, repeal CCR section 1993.3, and add CCR section 1993.4.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL

Amend CCR section 1993.2

The specific purpose of the amendments to CCR section 1993.2 is to remove “termite monitoring stations” from this section and to clearly define what an “above-ground bait station” and an “in-ground bait station” are. Additionally, the amendments to this section provide guidelines for when and how termite bait stations may be used.

B&P Code section 8514 states that a registered company shall not commence work on a contract or sign, issue, or deliver any documents related to the control of wood destroying organisms until an inspection has been completed. The amendments to CCR section 1993.2 are meant to implement B&P Code section 8514 by making clear that “termite bait stations” are devices that contain pesticide and are intended for use as a control measure.

Additionally, the specific purpose of the amendment to CCR section 1993.2 which states that termite bait stations are considered control service agreements is to implement B&P Code sections 8516(g) and 8516(h). B&P Code sections 8516(g) and 8516(h) define and provide guidelines for control service agreements. Among these guidelines are the requirements that an inspection be performed at the outset of the agreement, and that regular reinspections are to occur at agreed upon intervals throughout the agreement. Because termite bait stations require regular reinspection their use falls under the terms of a control service agreement.

Repeal CCR section 1993.3

Currently, CCR section 1993.3 provides that the use of termite monitoring and/or bait systems shall be considered a control service agreement as defined in B&P Code section 8516. The purpose of repealing this section is to make clear that the control service agreement requirement applies only to termite bait stations and has therefore been added to CCR section 1993.2.

Add CCR section 1993.4

Because termite monitoring stations are separate and distinct from termite bait stations the Board feels it necessary to create CCR section 1993.4. The specific purpose of the addition of CCR section 1993.4 is to define and establish provisions for the use of termite monitoring stations. Because termite monitoring stations provide an indication as to the possible presence or absence of termites, another purpose of the proposed additions is to make clear that only Branch 3 registered companies may install them.

Additionally, the specific purpose of the addition of CCR section 1993.4 is to implement B&P Code section 8516. Among other things, B&P Code section 8516 outlines when and how inspections and control service agreements are to be conducted. Termite monitoring stations do not contain any pesticides and provide no control measures. They are used to help a consumer

decide when they may be in need of having a full or limited inspection performed or entering into a control service agreement pursuant to B&P Code section 8516.

ANTICIPATED BENEFITS

The Board anticipates that the proposed changes will benefit consumers by allowing the use of termite monitoring stations without mandating that they be part of a control service agreement or that they may only be used after a full or limited inspection has been performed. Specifically, consumers benefit by being alerted to the possible presence or absence of termites without the additional cost impact of entering into a control service agreement and having a full or limited inspection performed.

UNDERLYING DATA

None

BUSINESS IMPACT

The Board has determined that the proposed regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The Board made this determination because the proposed regulation imposes no new requirements or restrictions on California businesses. The proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

MANDATE ON SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulation does mandate the use of any specific technologies or equipment.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will not affect the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will not affect the expansion of businesses currently doing business within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will benefit the health of welfare of California's residents, worker safety, and the state's environment in the following ways:

The health and welfare of California residents will benefit from the proposed regulation by being able to utilize termite monitoring devices without having to endure the cost impact of a full or limited inspection of their structure or the cost of a control service agreement.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons or businesses or equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

TITLE 16. STRUCTURAL PEST CONTROL BOARD

TERMITE STATIONS

Amend section 1993.2, repeal section 1993.3, and add section 1993.4 of Title 16, Division 19, of the California Code of Regulations to read as follows:

§ 1993.2. Termite Bait Station.

(a) For the purposes of this section ~~and section 1993.3~~, “termite bait station” shall include:

(1) an “above-ground bait station,” which shall mean any device containing pesticide bait used for the eradication of wood destroying pests that is attached to the structure, or

(2) an “in-ground bait station,” which shall mean any device containing pesticide bait used for the eradication of termites that is placed in the ground. ~~material to attract and or monitor wood destroying pests, or containing a pesticide bait to eradicate wood destroying pests, that is placed in the ground.~~

~~(3) an “in-ground termite monitoring system” is a device placed in the ground to determine the presence or absence of subterranean termites through scheduled periodic inspections.~~

(b) Prior to installation of any termite baiting system, a full or limited inspection of the structure shall be made.

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

Note: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8514 and 8516, Business and Professions Code.

~~§ 1993.3. In-Ground Termite Bait Stations.~~

~~Use of in-ground termite monitoring and/or baiting systems shall be considered a control service agreement as defined by section 8516 of the code.~~

~~Note: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8516, Business and Professions Code.~~

§ 1993.4 Termite Monitoring Devices

(a) "Termite monitoring devices" are defined as devices that contain no pesticides and do not provide any control measures. They solely provide an indication of the possible presence or absence of termites. Termite monitoring devices do not provide for positive identification, nor does a positive indication on such device eliminate the need for an inspection conducted by a Branch 3 Operator or Field Representative prior to any treatment or work being performed.

(b) Installation of termite monitoring device(s) must be performed by a registered Branch 3 company.

(c) Prior to installation of any termite monitoring device(s), the following disclosure language shall be provided to the property owner or the property owner's designated agent by either written or electronic means:

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

Note: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8514 and 8516, Business and Professions Code.

MINUTES OF THE MEETING OF THE STRUCTURAL PEST CONTROL BOARD

The Meeting was held July 14, 2016, at the Department of Consumer Affairs,
Hearing Room, 2005 Evergreen Street, Sacramento, California.

Board Members Present:

Curtis Good, Vice President
Ronna Brand
Naresh Duggal
Mike Duran
Darren Van Steenwyk

Board Members Absent:

Dave Tamayo

Board Staff Present:

Susan Saylor, Executive Officer
Robert Lucas, Assistant Executive Officer
David Skelton, Administrative Analyst

Departmental Staff Present:

Frederic Chan-You, Legal Counsel

ROLL CALL / ESTABLISHMENT OF QUORUM

Mr. Good called the meeting to order and Ms. Saylor called roll.

Board members Good, Brand, Duggal, Duran, and Van Steenwyk were present.

Board member Dave Tamayo was absent.

A quorum of the Board was established.

FLAG SALUTE / PLEDGE OF ALLEGIANCE

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

Mr. Good announced Mr. Van Steenwyk as a new Board member and welcomed him.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Jim Truslow and Jeremy Davis, BASF, spoke about a new product being offered by BASF that significantly reduces water usage and more precisely measures the volume of pesticides that are used in the treatment of wood destroying organisms.

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

APPROVAL OF MINUTES OF THE APRIL 6 & 7, 2016 BOARD MEETING

Mr. Duran moved and Mr. Van Steenwyk seconded to approve the minutes of the April 6 & 7, 2016 Board Meeting. Passed unanimously. (AYES: GOOD, BRAND, DUGGAL, DURAN, VAN STEENWYK. NOES: NONE. ABSTENTIONS: NONE.)

EXECUTIVE OFFICER'S REPORT

Ms. Saylor reported to the Board on licensing and enforcement survey results and statistics, CAC training, examination statistics, staffing changes, WDO statistics, examination development, the Board specialist examination, and provided regulatory and legislative updates.

Ms. Saylor stated that due to various circumstances the Board has experienced some staffing changes recently and that she wanted to thank and congratulate Board staff on the great job they've done managing the workload while being understaffed.

Mr. Good stated that the passing rates for the licensing examinations have improved.

Ms. Saylor stated that the passing rates shown in the Board materials were for May, 2016 and that the passing rates for June, 2016 were even better.

Mr. Good inquired about turnaround times for applicants to schedule an exam.

Ms. Saylor stated that PSI has 5 days to find an applicant a place to take their examination and that the Board has no backlog in processing applications.

Ms. Saylor updated the Board on the status of various regulations and stated that a 15 Day Notice of Modified Text was issued for the Board's Application Form Revision proposal which affects CCR sections 1936, 1936.1, and 1936.2 and the Board's license application forms.

Mr. Chan-You stated that the Board has not yet granted authority for the Executive Officer to make technical or non-substantive changes to the Application Form Revision regulatory proposal and recommended that the Board do so if it were so inclined.

Mr. Duran moved and Mr. Van Steenwyk seconded to grant authority to the Executive Officer to make technical or non-substantive changes to the Application Form Revision

regulatory proposal. Passed unanimously. (AYES: GOOD, BRAND, DUGGAL, DURAN, VAN STEENWYK. NOES: NONE. ABSTENTIONS: NONE.)

BOARD DISCUSSION AND POSSIBLE POSITION ON ASSEMBLY BILL 2596 TO PROHIBIT THE USE OF SPECIFIED ANTICOAGULANTS IN CALIFORNIA

Mr. Good stated that AB-2596, which proposes to ban anti-coagulant rodenticides in California has twice had hearings cancelled at the request of the author, Assemblyman Bloom. Mr. Good further stated that while AB-2596 raises important issues about the environmental impacts of pesticide misuse, a total ban would remove an important tool the industry uses to do its job. Mr. Good asked Mr. Van Steenwyk, who is chairing a committee on the topic for the Pest Control Operators of California (PCOC) to speak about the issues surrounding AB-2596.

Mr. Van Steenwyk stated that PCOC is in the process of developing educational programs and online training to highlight the negative impacts of rodenticide misuse.

Jim Steed, Neighborly Pest Management, stated that PCOC members have been in constant contact with Assemblyman Bloom's office and are trying to have a discussion and find common ground with the Bill's sponsor but so far they are not interested in having a discussion. Mr. Steed further stated that PCOC is currently preparing to argue against a ban of anti-coagulant rodenticides.

Mr. Duggal suggested making an effort to educate the author as to where the misuse of rodenticides most often occurs.

Baron McDonald, Clark Pest Control, stated that banning anti-coagulant rodenticides would make it extremely difficult for pest control operators to effectively control rodents and would likely lead to an increase in their population.

CONSIDERATION AND POSSIBLE BOARD ACTION TO CONSIDER SEEKING AN AMENDMENT TO BUSINESS AND PROFESSIONS (B&P) CODE SECTION 8621 IN ORDER TO EXTEND THE LENGTH OF TIME FOR THE BOARD TO TAKE FORMAL ACTION ON A COMPLAINT

Mr. Chan-You stated that he has reviewed staff's recommended changes to B&P Code section 8621 and does not have any problem with them.

Mr. Van Steenwyk asked Mr. Chan-You to define "gross negligence".

Mr. Chan-You stated that gross negligence is when a licensee acts in a manner which would be below the standard of care.

Mr. Duggal stated that gross negligence is unintentional or intentional conduct that results in great harm to the consumer.

Mr. Van Steenwyk moved and Mr. Duran seconded to approve the changes to B&P Code section 8621 and for the Executive Officer to seek an author to implement them. Passed unanimously. (AYES: GOOD, BRAND, DUGGAL, DURAN, VAN STEENWYK. NOES: NONE. ABSTENTIONS: NONE.)

DISCUSSION AND POSSIBLE BOARD ACTION TO AMEND TITLE 16, CCR SECTION 1920 TO UPDATE NOTIFICATION REQUIREMENTS PERTAINING TO INFORMAL CONFERENCES

Ms. Saylor presented the recommended changes to CCR section 1920 to extend the time period for the Board to notify a licensee of the result of an informal conference from 10 to 30 days.

Mr. Good stated that the extra time is needed.

Mr. Duran moved and Ms. Brand seconded to approve the changes to CCR section 1920 and for staff to begin the rulemaking process with the authority for the Executive Officer to make any necessary technical or non-substantive changes during the process. Passed unanimously. (AYES: GOOD, BRAND, DUGGAL, DURAN, VAN STEENWYK. NOES: NONE. ABSTENTIONS: NONE.)

BOARD CALENDAR

The following 4 meetings were scheduled for October 12 & 13, 2016 in Sacramento, January 11 & 12, 2017 in San Diego, April 5 & 6, 2017 in Sacramento, and July 12 & 13, 2017 at a location to be determined in southern California.

The July 12 & 13, 2017 meeting was tentatively scheduled for southern California pending the availability of a venue that could offer the state rate. If no such venue is found the meeting will be relocated to Sacramento.

FUTURE AGENDA ITEMS

Mr. Duggal requested a future agenda item to discuss the Research Fund.

Mr. Steed requested a future agenda item to discuss CCR section 1914.

PETITION FOR REINSTATEMENT
RYAN CHRISTOPHER VAN VELZER / FR 35866 / BRANCHES 2 & 3

Administrative Law Judge Ed Washington sat with the Board to hear the Petition for Reinstatement for Ryan Christopher Van Velzer, Field Representative License Number 35866. Mr. Van Velzer was informed that he would be notified by mail of the Board's decision.

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 reinstatement.

Return to Open Session

EXECUTIVE OFFICER'S REPORT (cont.)

Mr. Chan-You presented the Board with copies of the 15 Day Notice of Modified Text from the Application Form Revision regulatory proposal for CCR sections 1936, 1936.1, and 1936.2 so they could review the modified forms.

Mr. Van Steenwyk moved and Mr. Duran seconded to approve the modified text shown in the 15 Day Notice of Modified Text within the Application Form Revision regulatory proposal for CCR sections 1936, 1936.1, and 1936.2. Passed unanimously. (AYES: GOOD, BRAND, DUGGAL, DURAN, VAN STEENWYK. NOES: NONE. ABSTENTIONS: NONE.)

ADJOURNMENT

The meeting adjourned at 12:55 P.M.

Dave Tamayo, President

Date

| STRUCTURAL PEST CONTROL BOARD STATISTICS FOR AUGUST 2016 | FISCAL YEAR 2016/2017 | | FISCAL YEAR 2015/2016 | |
|---|--------------------------|-----------------|--------------------------|-----------------|
| | Monthly | Year To Date | Monthly | Year To Date |
| EXAMINATION | | | | |
| Field Representatives Scheduled | 509 | 907 | 453 | 901 |
| Field Representatives Examined | 306 | 628 | 356 | 743 |
| Field Representatives Passed | 155 | 345 | 132 | 272 |
| Field Representatives Failed | 151 | 283 | 224 | 471 |
| | | | | |
| Operators Scheduled | 36 | 65 | 31 | 63 |
| Operators Examined | 24 | 40 | 32 | 62 |
| Operators Passed | 17 | 26 | 22 | 39 |
| Operators Failed | 7 | 14 | 10 | 23 |
| | | | | |
| Applicators Scheduled | 384 | 736 | 318 | 672 |
| Applicators Examined | 298 | 594 | 283 | 577 |
| Applicators Passed | 134 | 267 | 118 | 247 |
| Applicators Failed | 164 | 327 | 165 | 330 |
| | | | | |
| Field Representatives Passing Rate | 51% | 55% | 37% | 37% |
| Operator Passing Rate | 71% | 65% | 69% | 63% |
| Applicators Passing Rate | 45% | 45% | 42% | 43% |
| | | | | |
| LICENSING | | | | |
| Field Representative Licenses Issued | 172 | 327 | 103 | 200 |
| Operator Licenses Issued | 20 | 26 | 9 | 21 |
| Company Registrations Issued | 24 | 40 | 17 | 41 |
| Branch Office Registrations Issued | 2 | 3 | 0 | 5 |
| Change of Registered Company Officers | 3 | 4 | 2 | 3 |
| Change Of Qualifying Manager | 9 | 16 | 12 | 25 |
| Applicator Licenses Issued | 150 | 285 | 111 | 269 |
| Duplicate Licenses Issued | 147 | 168 | 83 | 144 |
| Upgrade Present License | 34 | 59 | 15 | 35 |
| Change of Status Processed | 36 | 78 | 38 | 72 |
| Address Change | 75 | 127 | 305 | 443 |
| Address Change (Principal Office) | 22 | 35 | 25 | 53 |
| Address Change (Branch Office) | 2 | 4 | 4 | 9 |
| Transfer of Employment Processed | 230 | 368 | 109 | 342 |
| Change of Name | 3 | 3 | 5 | 6 |
| Change of Registered Company Name | 0 | 0 | 2 | 3 |
| License Histories Prepared | 14 | 20 | 18 | 30 |
| Down Grade Present License | 80 | 156 | 68 | 109 |
| | | | | |
| LICENSES/REGISTRATIONS IN EFFECT | | | | |
| Field Representative | | 11,629 | | 11,046 |
| Operator | | 4,130 | | 4,124 |
| Company Registration | | 3,026 | | 3,006 |
| Branch Office | | 453 | | 446 |
| Licensed Applicator | | 7,685 | | 6,802 |
| | | | | |
| LICENSES/REGISTRATIONS ON PROBATION | | | | |
| Companies | | 17 | | 19 |
| Licensees | | 97 | | 94 |

| STRUCTURAL PEST CONTROL BOARD STATISTICS FOR AUGUST 2016 | | FISCAL YEAR 2016/2017 | | FISCAL YEAR 2015/2016 | |
|---|--|--------------------------|-----------------|--------------------------|-----------------|
| Page 2 of 2 | | Monthly | Year To Date | Monthly | Year To Date |
| LICENSES RENEWED | | | | | |
| Operator | | 13 | 95 | 19 | 166 |
| Field Representative | | 34 | 317 | 45 | 374 |
| Applicator | | 26 | 135 | 12 | 61 |
| LICENSES/ REGISTRATIONS CANCELED | | | | | |
| Operator | | 8 | 10 | 2 | 12 |
| Field Representative | | 11 | 17 | 13 | 26 |
| Company Registration | | 11 | 25 | 16 | 35 |
| Branch Office | | 1 | 2 | 2 | 4 |
| Applicator | | 12 | 23 | 3 | 10 |
| LICENSES DENIED | | | | | |
| Licenses | | 5 | 9 | 4 | 5 |
| INVESTIGATIVE FINES PROCESSED | | | | | |
| Fines Processed | | \$0 | \$0 | \$0 | \$0 |
| Penalty Assessment | | \$0 | \$0 | \$0 | \$0 |
| Pesticide Fines | | \$19,000 | \$24,850 | \$16,490 | \$29,650 |
| STAMPS SOLD | | | | | |
| Pesticide | | 5,870 | 12,380 | 6,090 | 12,840 |
| SEARCHES MADE | | | | | |
| Public | | 88 | 153 | 81 | 159 |
| Complaints | | 5 | 17 | 38 | 74 |
| BOND & INSURANCE | | | | | |
| Bonds Processed | | 32 | 48 | 32 | 47 |
| Insurance Processed | | 220 | 445 | 210 | 500 |
| Restoration Bonds Processed | | 1 | 3 | 0 | 1 |
| Suspension Orders | | 66 | 114 | 16 | 52 |
| Cancellations Processed | | 37 | 80 | 25 | 50 |
| Change of Bond/Insurance | | 33 | 58 | 29 | 68 |
| CONTINUING EDUCATION EXAMS | | | | | |
| Field Representative Examined | | 0 | 0 | 0 | 0 |
| Field Representative Passed | | 0 | 0 | 0 | 0 |
| Field Representative Failed | | 0 | 0 | 0 | 0 |
| Operator Examined | | 0 | 0 | 0 | 0 |
| Operator Passed | | 0 | 0 | 0 | 0 |
| Operator Failed | | 0 | 0 | 0 | 0 |
| Applicator Examined | | 0 | 0 | 0 | 0 |
| Applicator Passed | | 0 | 0 | 0 | 0 |
| Applicator Failed | | 0 | 0 | 0 | 0 |

LICENSING UNIT SURVEY RESULTS

September 26, 2016 – SPCB Meeting

October 12, 2016 – October 13, 2016

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. 109 survey cards were mailed during this reporting period. 12 responses were received.

| | Question | Yes | No | N/A |
|---|--|---------|-----|-----|
| 1 | Was staff courteous? | 100% | 0% | 0% |
| 2 | Did staff understand your question? | 100% | 0% | 0% |
| 3 | Did staff clearly answer your question? | 100% | 0% | 0% |
| 4 | Did staff promptly return your telephone call? | 58% | 33% | 8% |
| 5 | Did staff efficiently and promptly handle your transaction? | 82% | 18% | 0% |
| 6 | How long did it take to complete its action on your file?* (Average) | 24 days | | |

*There were 9 responses to question 6, ranging from 1 day to 120 days.

Company Registration: 30 days average (1 response)

Operator License: 53 days average (3 responses)

Field Representative License: 14 days average (1 response)

Applicator License: 4 days average (2 responses)

Transfer of Employment: N/A (0 responses)

Change of Address: N/A (0 responses)

Bond/Insurance: N/A (0 responses)

Change of Qualifying Manager: N/A (0 responses)

Examination: 4 days average (2 responses)

Comments:

- Thanks. Very helpful staff.

- You need more help in licensing department. Frank is overworked.
- I had to call back two times.
- Frank did a great job!
- Long process, but understandable.
- Staff was great and even getting a response back to me via email was awesome.
- Slow to call back.
- Thank you.

WDO ACTIVITIES FILED

| | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 | MO. AVG |
|-----------------|------------------|------------------|------------------|------------------|---------|------------------|
| July | 110,432 | 123,958 | 122,803 | 121,639 | 111,086 | 117,984 |
| August | 110,534 | 116,087 | 112,400 | 112,511 | 121,000 | 114,506 |
| September | 103,223 | 129,161 | 116,100 | 115,977 | | 116,115 |
| October | 120,645 | 117,714 | 123,250 | 123,409 | | 121,255 |
| November | 102,655 | 103,787 | 94,750 | 100,779 | | 100,493 |
| December | 88,935 | 101,132 | 95,373 | 105,326 | | 97,692 |
| January | 94,775 | 92,959 | 88,247 | 83,209 | | 89,798 |
| February | 98,208 | 88,870 | 97,884 | 97,100 | | 95,516 |
| March | 114,785 | 109,979 | 124,448 | 122,261 | | 117,868 |
| April | 121,802 | 122,692 | 131,292 | 128,201 | | 125,997 |
| May | 115,207 | 114,956 | 116,578 | 123,028 | | 117,442 |
| June | 116,313 | 117,773 | 124,648 | 131,954 | | 122,672 |
| FY Total | 1,297,514 | 1,339,068 | 1,347,773 | 1,365,394 | | 1,337,437 |
| AVG PER MO. | 108,126 | 111,589 | 112,314 | 113,783 | | |

STRUCTURAL PEST CONTROL BOARD

REGULATORY ACTION STATUS

| SECTION | SUBJECT | STATUS |
|---------|---|--|
| 1902 | Definitions | October 1, 2016 - Staff Preparing Regulatory Proposal |
| 1911 | Addresses – Permits licensees to request a mailing address other than the address of record. | March 13, 1996 – Approved by the Office of Administrative Law. |
| | Addresses – Requires applicators to report change of address. | August 12, 1996 – Approved by the Office of Administrative Law. |
| | Transfer of Employment – Allow employers to disassociate employees | January 15, 2015 – Proposed text approved by Board Members. Contradicts B&P Code Section 8567 – Being referred to Act Review Committee. Staff preparing language to amend B&P Code Section 8567. |
| 1912 | Branch Office Registration – Section 100 Change. To change the phrase “A registered company who opens a branch shall ...” to “A registered company which opens a branch office shall...” | Section 100 Change – Approved by the Office of Administrative Law on May 17, 2004. |

| | | |
|------|---|---|
| 1914 | Name Style – Delete Board’s responsibility to disapprove confusingly similar name styles. | <p>December 16, 1998 – Public Hearing. Disapproved by the Board.</p> <p>April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 Approved by the Office of Administrative Law.</p> |
| 1914 | <p>Name Style – Company Registration</p> <p>Will prohibit the approval or use of a company name or telephone number that is the same as the name or telephone number of a company whose registration has been surrendered.</p> | <p>January 14, 2016 – Language approved by the Board and staff instructed to begin the rulemaking process.</p> <p>June 1, 2016 – Notice for public hearing submitted to DCA for legal review.</p> <p>August 26, 2016 – Public Notice Published for October 13, 2016 Public Hearing.</p> |
| 1918 | <p>Supervision – Clarifies that a field representative or an operator can supervise.</p> <p>Supervision – Permits qualifying managers to supervise multiple locations.</p> | <p>August 12, 1996 – Approved by the Office of Administrative Law.</p> <p>December 16, 1998 – Public Hearing. Referred to Rules and Regulations Committee.</p> <p>August 6, 1999 – Modified language mailed. January 11, 2001 Public Hearing. Adopted by the Board. Rulemaking file not completed by deadline of December 1, 2001</p> |

| | | |
|-------------------|---|---|
| 1918 | Re-states supervision of multiple locations, clarifies liability / responsibility of qualifying manager[s] & supervisor(s). | <p>April 4, 2003 Public Hearing, referred to Rules and Regs Committee. Committee meeting held September 17, 2003. Placed on agenda for October 17, 2003 Bd. Mtg.</p> <p>Modified Text mailed Nov. 19, 2003. Comments due Dec. 3, 2003. No comments rec'd. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.</p> |
| 1919 | Research Panel - Deletes reference to public board member on panel. | <p>March 13, 1996 - Approved by the Office of Administrative Law.</p> |
| 1920 | Cite & Fine - Authorizes board staff to issue citations and fines. | <p>August 13, 1998 - Approved by the Office of Administrative Law.</p> |
| | Cite & Fine - Amends to clarify no appeal after modification of decision. | <p>October 15, 1999 - Public Hearing - Board voted to adopt.</p> |
| | Cite & Fine - Specifies that a second informal conference for a modified citation will not be allowed. | <p>January 11, 2001 - Public Hearing - Board voted to adopt. December 1, 2001 Rulemaking File not completed by deadline. April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.</p> |
| 1920 (e)(1)(2)(3) | | |

| | | |
|-------------------|---|--|
| <p>1920(b)</p> | <p>Citation - Assessment of Fines – SB 362 increased max fine amount to \$5000.</p> <p>Repealed specific criteria required in assessing fines in excess of \$2,500.</p> | <p>Section 100 Change pending Administrative decision to go forward. Filed with Sec. of State: 12-18-03. Board approved DCA's four sets of circumstance for max. fine on October 8, 2004. Noticed for Public Hearing July 15, 2005. December 30, 2005 – Approved by the Office of Administrative Law.</p> <p>Agency subsequently agreed that the specific criteria from 2004 for fines in excess of \$2,500 should no longer apply. Board approved on April 22, 2010.</p> <p>December 22, 2010 Notice, ISOR, Language, Std 399 submitted to Linda Otani for review/approval by DPR and Agency.</p> <p>April 12, 2011 DPR returned package with approval signatures.</p> <p>May 10, 2012 – Public Hearing – Board voted to adopt.</p> <p>March 22, 2013 rulemaking file filed with Office of Administrative Law</p> <p>May 8, 2013 – Disapproved by OAL</p> <p>Economic Impact Statement not included</p> <p>June 25, 2013 – 15 day notice to add Economic Impact Statement</p> <p>July 17, 2015 – Resubmitted to OAL</p> <p>August 8, 2013 – Approved by OAL</p> <p>Became Effective October 1, 2013</p> |
| <p>1920(e)(2)</p> | <p>Allows the Board 30 Days Rather Than 10 to Notify Respondents of Informal Conference Decisions.</p> | <p>July 14, 2016 – Language Approved by the Board and Staff Instructed to Begin the Rulemaking Process.</p> <p>October 1, 2016 – Staff Preparing Regulatory Proposal.</p> |

| | | |
|--------|--|---|
| 1922 | <p>Civil Penalty Actions by Commissioners – Specifies penalty ranges. Penalty ranges serious, minor and moderate upped to mirror new law.</p> | <p>May 14, 1998 – Approved by the Office of Administrative Law. Noticed for Public Hearing: October 7, 2005. Adopted by the Board. August 25, 2006 – Approved by the Office of Administrative Law.</p> |
| 1922.3 | <p>Course requirements by County Agricultural Commissioners - Will place into regulation specific guidelines for licensee / County Ag Commissioners re: civil penalty actions.</p> | <p>Noticed for the April 23, 2004 Board Meeting. Approved by the Office of Administrative Law - July 6, 2005.</p> |
| 1923 | <p>Consumer Complaint Disclosure.</p> <p>DCA created new document: Public Information System – Disclosure.</p> | <p>July 18, 2003 - Public Hearing - Board approved to adopt after proposed language modified with a 15-day public comment period. Rulemaking file placed on hold due to Executive Order. Withdrawn by DCA Legal Dept. Noticed for Public Hearing: October 7, 2005. Board voted to not proceed. (Language needs re-drafting – (a)4(d)(A) and (B)(ii) – now conforms to healing arts situation, and, if [A] is satisfied – so is [B])</p> |
| 1934 | <p>Board Approved Operator's License Course – Specifies time period in which courses must be completed.</p> | <p>August 13, 1998 – Approved by the Office of Administrative Law.</p> |

| | | |
|---------------|---|--|
| <p>1936</p> | <p>Operator and Field Representative License Applications Revisions to include military and veteran status, revised criminal history question, etc.</p> | <p>March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms June 4, 2015 - Noticed for Public Hearing</p> <p>July 23, 2015 - Public Hearing – Adopted by Board.</p> <p>August 20, 2015 – To DCA for legal review.</p> <p>June 8, 2016 – 15 Day Notice of Modified Text issued to clarify that California ID in lieu of driver license is acceptable.</p> <p>August 30, 2016 – Final Rulemaking Package Delivered to OAL.</p> |
| <p>1936.1</p> | <p>Company Registration Form Revisions to include military and veteran status, revised criminal history question, etc.</p> | <p>March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms June 4, 2015 - Noticed for Public Hearing</p> <p>July 23, 2015 - Public Hearing – Adopted by Board.</p> <p>August 20, 2015 – To DCA for legal review.</p> <p>June 8, 2016 – 15 Day Notice of Modified Text issued to clarify that California ID in lieu of driver license is acceptable.</p> <p>August 30, 2016 – Final Rulemaking Package Delivered to OAL.</p> |

| | | |
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| 1936.2 | Applicator – Established by regulation the form for the applicator's license. | <p>August 12, 1996 – Approved by the Office of Administrative Law.</p> |
| 1936.2 | <p>Applicator License Application Form</p> <p>Revisions to include military and veteran status, revised criminal history question, etc.</p> | <p>March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms</p> <p>June 4, 2015 - Noticed for Public Hearing.</p> <p>July 23, 2015 - Public Hearing – Adopted by Board</p> <p>August 20, 2015 – To DCA for legal review.</p> <p>June 8, 2016 – 15 Day Notice of Modified Text issued to clarify that California ID in lieu of driver license is acceptable.</p> <p>August 30, 2016 – Final Rulemaking Package Delivered to OAL.</p> |
| 1937 | <p>Qualification of Applicant – Specifies minimum number of hours of training and experience.</p> <p>IPM training and experience – Requires that branch 2 and/or 3 applicants complete training and experience in structural Integrated Pest Management as part of their pre-licensing requirements</p> | <p>August 13, 1998 – Approved by the Office of Administrative Law.</p> <p>January 2008 – Noticed for Public Hearing to amend the current regulation.</p> <p>April 18, 2008 - Public Hearing - Board approved to adopt.</p> <p>June 26, 2008 - Rulemaking file submitted to DCA for Director review.</p> <p>November 18, 2008 – Clarification of the effective date needed for section 1950 of the rulemaking file.</p> <p>January 6, 2009 – Rulemaking file submitted to DCA for Director review.</p> <p>March 20, 2009 - Approved by the Office of Administrative Law.</p> |

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| <p>1937.11</p> | <p>Disciplinary Guidelines – Incorporates by reference the Manual of Disciplinary Guidelines and Model Disciplinary Orders. Clean up language to change reference of UC Berkeley correspondence course to a CE course approved by board.</p> | <p>April 14, 1997 – Approved by the Office of Administrative Law. Board approved on October 28, 2010. December 22, 2010 Notice, ISOR, Language, Std 399 submitted to Linda Otani for review/approval by DPR and Agency. April 12, 2011 DPR returned package with approval signatures. May 10, 2012 – Public Hearing - Board voted to adopt. March 22, 2013 rulemaking file filed with Office of Administrative Law May 8, 2013 – Disapproved by OAL Economic Impact Statement not included June 25, 2013 – 15 day notice to add Economic Impact Statement July 17, 2015 – Resubmitted to OAL August 8, 2013 – Approved by OAL Became Effective October 1, 2013</p> |
| <p>1937.11</p> | <p>Revisions regarding when suspension time must be served, length of probation, tolling of probation, etc.</p> | <p>March 26, 2015 - Board ask for additional time to review and ensure that maximum penalties are sufficient. July 23, 2015 – Approved by Board Members and staff instructed to begin the rulemaking process. June 1, 2016 – Notice for Public Hearing submitted to DCA for legal review. August 26, 2016 – Public Notice Published for October 13, 2016 Public Hearing.</p> |

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| <p>1937.17</p> | <p>Customer Notification of Licensure – Adopts regulation requiring practitioner notification to customer of licensure.</p> | <p>October 15, 1999 – Public Hearing - Referred to committee. January 18, 2002 - Public Hearing adopted by the board with modified text. December 16, 2002 - Approved by the Office of Administrative Law.</p> |
| <p>1940 1941 1942</p> | <p>Applicator – Amends these actions to make distinction between field representatives, operators and applicators.</p> | <p>August 12, 1996 – Approved by the Office of Administrative Law.</p> |

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| 1948 | <p>Applicator Renewal Fee – Establishes the fee for applicator license renewal.</p> <p>Applicator – Establish and specify fee for applicator's license and license renewal.</p> | <p>June 26, 1998 – Public Hearing.</p> <p>Pending approval by Department of Finance.</p> <p>January 20, 2000 – Public Hearing - Board voted to adopt. March 13, 2002 disapproved by OAL. April 12, 2002 Public Hearing: Board voted to take no action. May 5, 2002: Rulemaking file submitted to the Director.</p> <p>July 7, 2002 file disapproved, DCA opposed approval due to Board's current fund condition. April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Notified for Public Hearing: April 8, 2005. Adopted by the Board. April 2005 - DCA opposed proposal. Withdrawn from rulemaking file on April 28, 2005 for separate submission.</p> <p>Notified for Public Hearing: October 7, 2005. Adopted by the Board. August 25, 2006 – Approved by the Office of Administrative Law.</p> |
| 1948 | <p>Applicator license/renewal fee lowered to \$10, Operator license/renewal fee lowered to \$120.</p> | <p>October 15, 1999 – Public Hearing - Adopted by the Board. January 20, 2000 Board decided to drop this section.</p> |
| 1950 | <p>Continuing Education - Deletes outdated renewal requirements.</p> | <p>August 12, 1996 - Approved by the Office of Administrative Law.</p> |

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| 1950 | <p>Applicator Continuing Education – Establish and specify number and type of continuing education hours required for renewal of applicator's license. At April 2005 Hearing CE hours were changed to 12 hrs total, 8 covering pesticide application/use and 4 covering SPC Act & its rules & regulations or structural pest related agencies' rules & regulations.</p> | <p>June 26, 1998 - Public Hearing. Pending approval by Department of Finance. January 20, 2000 - Public Hearing Board voted to adopt. March 13, 2001 disapproved by the OAL. April 12, 2002 - Public Hearing. Board voted to adopt. Disapproved by the Director July 7, 2002. April 4, 2003 - Public Hearing - Board voted to proceed after 15-Day Notice. Notice mailed June 11, 2003, final comments due June 30, 2003. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Board voted to proceed after a 15-Day Notice. Notice mailed: May 27, 2005. March 21, 2006 - Approved by the Office of Administrative Law.</p> |
| 1950 | <p>Continuing Education - Deletes language regarding Wood Roof Cleaning & Treatment Continuing Education - Hours.</p> <p>Continuing Education - To establish four hours in ethics for license renewal of Operators and Field Representatives.</p> | <p>Change without Regulatory Effect - Approved by the Office of Administrative Law effective March 26, 2002.</p> <p>Noticed for April 23, 2004 Bd. Mtg. Matter considered and rejected at July 23, 2004 Special Mtg. Withdrawn July 2004 with Notice of Decision Not to Proceed.</p> <p>Noticed for the April 18, 2008 Board Meeting.</p> <p>April 18, 2008 - Public Hearing - Board approved to adopt after proposed language modified with a 15-day public comment period.</p> <p>June 26, 2008 - Rulemaking file submitted to DCA for Director review.</p> <p>November 18, 2008 - Clarification of the effective date needed for section 1950 of the rulemaking file.</p> <p>January 6, 2009 - Rulemaking file submitted to DCA for Director review.</p> <p>March 20, 2009 - Approved by the Office of Administrative Law.</p> |
| 1950 | <p>Continuing Education - Requires that branch 2 and/or 3 licensees gain continuing education hours in structural Integrated Pest Management as part of their license renewal requirements.</p> | |

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| 1950.1 | <p>Armed Services Exemption – Grants a one-year extension for a licensee to complete his/her continuing education requirements if his/her license expired while serving for the United States armed services.</p> | <p>Noticed for the January 23, 2009 Board Meeting. January 23, 2009 - Public hearing, Board voted to send out 15-day notice of modified text. February 9, 2009 – Notice of modified text sent out. June 10, 2009 - Rulemaking file submitted to DCA for Director review. August 5, 2009 – Received approved rulemaking file from DCA. August 5, 2009 – Final rulemaking file submitted to OAL. September 16, 2009 – Approved by the Office of Administrative Law</p> | <p>Noticed for the January 23, 2009 Board Meeting. January 23, 2009 - Public hearing, Board voted to send out 15-day notice of modified text. February 9, 2009 – Notice of modified text sent out. June 10, 2009 - Rulemaking file submitted to DCA for Director review. August 5, 2009 – Received approved rulemaking file from DCA. August 5, 2009 – Final rulemaking file submitted to OAL. September 16, 2009 – Approved by the Office of Administrative Law</p> |
| 1950.5(c),(d)(g),(h),(g) | Continuing Education - Requires that course providers administer a second examination. | March 13, 1996 - Approved by the Office of Administrative Law. | |
| 1950.5(c),(d)(g),(h),(g) | Continuing Education Requirements, Hour Value System, removal of language regarding wood roof cleaning and treatment. | March 26, 2002 - Approved by the Office of Administrative Law | |
| 1950.5 | <p>Hour Value System - Require all C.E. providers to administer written tests after licensees complete approved courses in technical or rules and regulations; equivalent activities will no longer be granted C.E.; Board mtg. attendance will drop to 4 hrs total C.E. credit - 1 hr General Ed and 1 hr Rules & Regs per meeting.</p> | Noticed for the April 23, 2004 Board Meeting. Approved by the Office of Administrative Law - July 6, 2005. | |

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| 1950.5 | Hour Value System - Establish an hour value for board approved Integrated Pest Management courses. | <p>Noticed for the April 18, 2008 Board Meeting.</p> <p>April 18, 2008 - Public Hearing - Board approved to adopt.</p> <p>June 26, 2008 - Rulemaking file submitted to DCA for Director review.</p> <p>November 18, 2008 - Clarification of the effective date needed for section 1950 of the rulemaking file.</p> <p>January 6, 2009 - Rulemaking file submitted to DCA for Director review.</p> <p>March 20, 2009 - Approved by the Office of Administrative Law.</p> |
| 1951 | Continuing Education - Makes distinction between field representative, operators and applicators. | <p>August 12, 1996 - Approved by the Office of Administrative Law.</p> |
| | Continuing Education - Licensing examination to replace continuing education examination. | <p>October 15, 1999 - Public Hearing - referred to committee.</p> <p>April 6, 2000 - Committee recommendations to the Board.</p> |
| | Examination in Lieu of C.E. - To change references of operator/field representative to "licensee" and clarify that a passing score is 70% or higher. | <p>Noticed for the April 23, 2004 Board Meeting. Approved by the Office of Administrative Law - July 6, 2005.</p> |
| 1953(a) | <p>Providers of Continuing Education - C.E. providers that providers do not charge an attendee fee to be exempt from the \$25 course approval fee. Thus eliminating financial burden to the provider.</p> <p>Adopt a revised form 43M-18.</p> | <p>January 11, 2001 - Public Hearing - Board voted to adopt. February 2001-DCA opposed proposal.</p> <p>July 18, 2003 - Public Hearing Board voted to adopt new form. March 17, 2004 Rulemaking file on hold due to Executive Order.</p> <p>Approved by Office Of Administrative Law on August 12, 2004.</p> |

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| 1953(f)(3) | Approval of Activities - Revised Form. | <p>July 18, 2003 Public Hearing - Board voted to adopt the revised form. Approved by Office Administrative Law, Section 100 Change effective on May 2, 2003.</p> |
| 1953(f)(3) | <p>Section 100 Change - Typo. The dates for the form numbers were duplicated. Delete (New 5/87) and replace it with (Rev. 11/99) Revise the form - Return it back to 43M-38 (5/87). Current form (Rev.11/99) is obsolete.</p> <p>Correction of reversal of form numbers 43M-38 and 43M-39 in language and 43M-39 given Rev.10/03 date.</p> | <p>Section 100 Change to OAL on May 13, 2004. Withdrawn June 17, 2004. Change requires language be re-noticed. Board needs to notice for public hearing.</p> <p>Approved by the Office of Administrative Law - July 6, 2005</p> |
| 1953(3) (A)(C)(D)(E)(4)(g) | Approval of Activities - Clean up language in item (3)(A), define "syllabus" in item (3)(C), revision of form No 43M-39, and language regarding the cost of postage in item (3)(D), delete the words "or products" and language regarding the approval for meetings of in-house staff or employee training being approved in item (4)(g). | <p>Noticed for April 23, 2004 Board Meeting. Approved by the Office of Administrative Law - July 6, 2005.</p> |
| 1953(f)(3)(D) | Approval of Activities - Remove the requirement that continuing education course providers provide course evaluation forms to students. | <p>Noticed for the April 18, 2008 Board Meeting. April 18, 2008 - Public Hearing - Board approved to adopt. June 26, 2008 - Rulemaking file submitted to DCA for Director review. November 18, 2008 - Clarification of the effective date needed for section 1950 of the rulemaking file. January 6, 2009 - Rulemaking file submitted to DCA for Director review. March 20, 2009 - Approved by the Office of Administrative Law.</p> |

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| 1960 | Fingerprint Requirement – requires all licensees who have not previously been fingerprinted to do so upon license renewal | <p>March 26, 2015 - Text Approved by Board Members</p> <p>June 4, 2015 - Noticed for Public Hearing</p> <p>July 23, 2015 - Public Hearing – Adopted by Board.</p> <p>August 20, 2015 – To DCA for review.</p> <p>December 1, 2015 – Approved by DCA, to Agency for review.</p> <p>January 21, 2016 – To OAL for final review.</p> <p>February 29, 2016 – Approved and effective.</p> |
| | Standards - Construction elements allowing passage of fumigants. | <p>October 12, 2000 - Public Hearing - Board voted to adopt with modifications.</p> <p>November 23, 2001 - Approved by the Office of Administrative Law.</p> |
| 1970 | Fumigation Log - Delete the reporting requirements of the name and address of the guard, and delete the date and hour the police department was notified of fumigation. Rev. form 43M-47. | <p>January 11, 2001 - Public Hearing - Board voted to adopt. Rulemaking file not complete by deadline of December 1, 2001.</p> <p>April 4, 2003 - Public Hearing. Due to errors in language, re-noticed for July 18, 2003 - Public Hearing. Board voted to adopt new language and revise log form number 43M-47. Approved by Office of Administrative Law on August 12, 2004.</p> |
| 1970 | Add additional fumigant calculators on the Fumigation Log | <p>Noticed for Public Hearing July 20, 2007.</p> <p>July 20, 2007 - Public Hearing. Board voted to adopt.</p> <p>September 26, 2007 language under DCA legal review by the Director.</p> <p>March 17, 2008 – Approved by the Director, filed with the Office of Administrative Law.</p> <p>April 29, 2008 – Approved by the Office of Administrative Law.</p> |

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| 1970 | Standards and Record Requirements - Fumigating contractors will be required to provide a complete fumigation log to its prime contractors and retain the log for 3 years. | <p>July 18, 2003 - Board voted to place on October 17, 2003 board meeting agenda. October 17, 2003 Board voted not to adopt.</p> <p>Noticed for Public Hearing July 20, 2007. July 20, 2007 - Public Hearing. Board voted to adopt. September 26, 2007 language under DCA legal review by the Director. March 17, 2008 - Approved by the Director, filed with the Office of Administrative Law. April 29, 2008 - Approved by the Office of Administrative Law.</p> |
| 1970.3 | Securing Against Entry - Includes clamshell locks and pins in general description of secondary locks. | <p>March 13, 1996 - Approved by the Office of Administrative Law.</p> |
| 1970.4 | Pesticide Disclosure Requirement - Requires primary contractor to retain OFN for three years. | <p>July 28, 1995 - Board voted to adopt. Technical error - Necessary to re-notice all amendments.</p> |
| 1970.4 | Pesticide Disclosure Requirement - Includes the required Occupants Fumigation Notice into regulation. | <p>May 12, 1995 - Public Hearing. Referred to the Laws and Regulations Committee for further review. December 8, 1995 - Board adopted revision to the OFN. Technical error-Necessary to re-notice all amendments.</p> |
| 1970.4 | Pesticide Disclosure Requirement - Requires primary contractor to retain Occupants Fumigation Notice (OFN) for three years. Includes the required OFN into regulation. | <p>April 28, 1998 - Approved by the Office of Administrative Law.</p> |
| | Pet Notification - Amends OFN to include notification regarding neighboring pets. | <p>January 20, 2000 - Board voted to adopt. June 23, 2000 Board voted not to proceed. January 2005 Board voted to proceed. Noticed for Public Hearing July 15, 2005. December 30, 2005 - Approved by the Office of Administrative Law.</p> |

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| 1970.4 | <p>Disclosure Requirement - Deletes language regarding Wood Roof Cleaning & Treatment Pesticide.</p> | <p>March 26, 2002 change without regulatory effect approved by the Office of Administrative Law.</p> <p>Noticed for Public Hearing July 20, 2007. July 20, 2007 - Public Hearing. Board voted to adopt.</p> <p>September 26, 2007 language under DCA legal review by the Director.</p> <p>March 17, 2008 - Approved by the Director, filed with the Office of Administrative Law.</p> <p>April 29, 2008 - Approved by the Office of Administrative Law.</p> |
| 1970.4 | <p>Allows for signed Occupants Fumigation Notice to be in electronic format</p> | <p>January 15, 2015 - Text Approved by Board Members</p> <p>June 4, 2015 - Noticed for Public Hearing July 23, 2015 - Public Hearing.</p> <p>August 20, 2015 - To DCA for review.</p> <p>February 17, 2016 - To OAL for final review.</p> <p>March 22, 2016 - Approved to become effective July 1, 2016. Industry notified May 31, 2016.</p> |
| 1970.4 | <p>Pesticide Disclosure Requirement</p> <p>Additional updates allowing information about pesticide use to be distributed electronically.</p> | <p>October 8, 2015 - Language approved by the Board.</p> <p>January 15, 2016 - Act Review Committee recommended additional changes. Staff preparing documents.</p> <p>October 1, 2016 - Staff Preparing Regulatory Proposal.</p> |

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| 1970.5 | <p>Aeration - Clarifies that a field representative or operator must be present during aeration.</p> <p>Amendment regarding when licensee is required to be present to correlate with DPR's CAP regulation. – DEAD 05/10/12</p> | <p>August 12, 1996 – Approved by the Office of Administrative Law.</p> <p>December 22, 2010 Notice, ISOR, Language, Std 399 submitted to Linda Otani for review/approval by DPR.</p> <p>March 11, 2011 DPR request this regulation be repealed.</p> <p>April 28, 2011 Board voted to repeal regulation.</p> <p>May 10, 2012 – Public Hearing – Board voted to non-adopt proposed repeal of regulation.</p> |
| 1970.6 | <p>Fumigation - Construction elements allowing passage of fumigants.</p> | <p>December 16, 1998 - Public Hearing - Action postponed until further input.</p> <p>June 18, 1999 - Board voted to adopt with modifications.</p> <p>November 23, 2001 - Approved by the Office of Administrative Law.</p> |
| 1971 | <p>Gas Masks – Removed the subsection concerning gas masks. B&P Code section 8505.15 was repealed January 1, 2008</p> | <p>Noticed for Public Hearing July 24, 2009</p> <p>July 24, 2009 – Board members voted to carryover to next board meeting.</p> <p>October 22, 2009 – Board members voted not to proceed with amending the regulation.</p> |
| 1973 | <p>Re-entry Requirements - Requires use of proper testing equipment and changes printing on re-entry notice from red to black.</p> | <p>March 13, 1996 - Approved by the Office of Administrative Law.</p> |
| 1973 | <p>Notice of Re-entry – Replace a product trade name with the active ingredient.</p> | <p>Noticed for Public Hearing July 20, 2007.</p> <p>July 20, 2007 - Public Hearing. Board voted to adopt.</p> <p>September 26, 2007 language under DCA legal review by the Director.</p> <p>March 17, 2008 – Approved by the Director, filed with the Office of Administrative Law.</p> <p>April 29, 2008 – Approved by the Office of Administrative Law.</p> |

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| 1974 | <p>Fumigation Warning Signs - Specifies size and placement of signs.</p> <p>Fumigation warning signs to include the name of the fumigant used and its active ingredient.</p> | <p>March 13, 1996 - Approved by the Office of Administrative Law.</p> <p>Noticed for Public Hearing January 21, 2010 Public hearing held January 21, 2010 - Board voted to adopt. May 18, 2010, Rulemaking File submitted to DPR for approval. September 23, 2010 DPR returned package with approval signatures. September 30, 2010 Rulemaking File submitted to OAL. November 8, 2010 approved by OAL</p> |
| 1983(i) | <p>Handling, Use and Storage of Pesticides - Clarification of bait station (rodenticide and avicide) reference.</p> | <p>December 16, 1998 - Public Hearing December 30, 1998 - Notice of Modification mailed. January 11, 2001 - Public Hearing - Board voted to adopt. Rulemaking File not complete by deadline date of December 1, 2001. April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.</p> |
| 1983(j) | <p>Language regarding the removal of termite bait stations when a contract for service is terminated.</p> | <p>July 18, 2003 - Public hearing Board voted to adopt with proposed amendments. Approved by the Office of Administrative Law on August 12, 2004</p> |

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| 1984 | Proposed regulation to define structural Integrated Pest Management | <p>October 2007 – Noticed for Public Hearing to adopt new section.</p> <p>March 10, 2008 – Final rulemaking file submitted to the Department.</p> <p>June 6, 2008 – Approved by the Director, filed with the Office of Administrative Law.</p> <p>July 9, 2008 – Approved by the Office of Administrative Law.</p> <p>Noticed for the January 23, 2009 Board Meeting.</p> <p>January 23, 2009 - Public hearing, Board voted to adopt with proposed amendments.</p> <p>June 10, 2009 - Rulemaking file submitted to DCA for Director review.</p> <p>August 5, 2009 – Received approved rulemaking file from DCA.</p> <p>August 5, 2009 – Final rulemaking file submitted to OAL.</p> <p>September 16, 2009 – Approved by the Office of Administrative Law</p> |
| 1990 | Report Requirements - Defines separated reports and structural members, and addresses reporting requirements for carpenter ants/bees. | <p>March 13, 1996 - Approved by the Office of Administrative Law.</p> |
| 1990 | Report Requirements Under Section 8516 Makes various changes to clarify and update existing language. | <p>January 14, 2016- Language approved by Board and staff instructed to begin the rulemaking process. Staff preparing documents.</p> <p>October 1, 2016 – Staff Preparing Regulatory Proposal.</p> |
| 1990(g) | Report Requirements – Inspection of wooden decks. | <p>April 28, 1998 - Approved by the Office of Administrative Law.</p> |
| 1990.1 | Report Requirements - Repeal language under Section 8516.1(b) and (c)(1)(8). | <p>March 26, 2002 change without regulatory effect - Approved by the Office of Administrative Law.</p> |

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| 1991 | Report Requirements - Eliminates requirement to cover accessible pellets and frass, and requires replacement of wood members no longer serving purpose to support or adorn the structure. | March 13, 1996 - Approved by the Office of Administrative Law. |
| 1991(A)(B)(C) | Report Requirements - Specifies the restoration, refastening, removal or replacement of wooden decks, wooden stairs or wooden landings. | April 28, 1998 - Approved by the Office of Administrative Law. |
| 1991(a)(5) | Report Requirements - Allows for reinforcement of fungus infected wood and permits surface fungus to be chemically treated or left as is once the moisture is eliminated. | April 3, 1996 - Approved by the Office of Administrative Law. |
| 1991(a)(5) | Report Requirements - Requires registered companies to report that local treatment and/or corrective work will not eradicate other undetected infestations which may be located in other areas of the structure. | October 6, 1995 - Public Hearing - Board voted to non-adopt. Referred to committee to consider the matter of an all-encompassing disclosure statement on all inspection reports addressing inaccessible areas and potential infection and infestations. |
| 1991(a)(8)c) | | October 15, 1999 Public Hearing - Board voted to adopt. January 11, 2001 - Referred back to committee for comments. October 19, 2001 Public Hearing - Board voted to non-adopt, referred language back to committee. August 31, 2002 publication date expired. |
| 1991 (cont.) | Report Requirements - Local treatment notification. | October 11, 2002 - Re-noticed -Public Hearing. Board voted to adopt. January 8, 2003 language under DCA legal review by the Director. February 21, 2003 filed with the Office of Administrative Law. Rulemaking file withdrawn from OAL March 27, 2003 pending a 15-Day Notice. File resubmitted to OAL. July 26, 2003 - Approved by the Office of Administrative Law. |

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| 1991(a)(9) | Report Requirement - Corrective Measures for extermination of a subterranean termite infestation and termite tubes. Exception for above ground termite bait stations. | <p>January 11, 2001 Board voted to amend 1991(a)(9). October 19, 2001 Board passed unanimously to modify language with a 15-Day Notice. Notice mailed January 28, 2002, 1 year past the publication date. Bd. needs to re-notice. Notified for Public Hearing July 15, 2005. December 30, 2005 – Approved by the Office of Administrative Law.</p> |
| 1991(13)(A) (B)(C) | Report Requirements - Delete specific recommendations regarding wooden decks, wooden stairs and landings. Language already exists in 1991(a)(5). | <p>October 19, 2001 Board voted to repeal the language. August 31, 2002 publication date expired.</p> <p>April 4, 2003 - Public Hearing. Board voted to go forward after 15-Day Notice. Notice mailed June 11, 2003, final comments due June 30, 2003. February 14, 2004 rulemaking file expired due to Executive Order. Notified for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.</p> |
| 1991(b)(10) | Report Requirements – Non-substantive correction to heading. | <p>March 28, 2000 – Filed with the Office of Administrative Law.</p> <p>May 15, 2000 - Approved by the Office of Administrative Law.</p> |
| 1991 | <p>Report Requirements</p> <p>Makes Various Changes to the Language in Order to Promote Clarity and Consistency</p> | <p>April 7, 2016- Language approved by Board and staff instructed to begin the rulemaking process. Staff preparing documents.</p> <p>October 1, 2016 – Staff Preparing Regulatory Proposal.</p> |

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| <p>1992</p> | <p>Secondary Recommendations</p> <p>Changes Language to Specifically State That Secondary Recommendations Must be Listed on the Notice of Work Completed / Not Completed</p> | <p>April 7, 2016- Language approved by Board and staff instructed to begin the rulemaking process. Staff preparing documents.</p> <p>October 1, 2016 – Staff Preparing Regulatory Proposal.</p> |
| <p>1993(a)(b) (c)(d)(e)</p> | <p>Inspection - Specifies that reports shall comply</p> <p>With 8516 and defines different types of inspection reports. Also clarifies difference between duties performed by a field representative, operator and applicator.</p> <p>Inspection Reports - Clarifies that the requirement applies to licensed field representative and licensed operators, not license applicators.</p> | <p>March 13, 1996 - Approved by the Office of Administrative Law.</p> <p>August 12, 1996 - Approved by the Office of Administrative Law.</p> |
| <p>1993</p> | <p>Deletes language regarding the filing of stamps.</p> | <p>April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 rulemaking file expired due to Executive Order. Notified for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 -Approved by the Office of Administrative Law.</p> |
| <p>1993, 1998</p> | <p>Report Requirements – To eliminate reference to filing inspection reports and notices of work completed and require companies to file the address of properties inspected.</p> | <p>January 20, 2000 - Public Hearing Board voted to adopt. March 13, 2001 Rulemaking File disapproved by the Office of Administrative Law.</p> <p>April 4, 2003 - Public Hearing. Sec.1996 proceed with a 15-Day Notice, Sec. 1996.3 re-notice for July 18, 2003 meeting, Sec.1993 & 1998 Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Notified for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.</p> |

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| 1993.1 | <p>Reinspection Language – To adopt section 1993.1 to require Wood Destroying Pest and Organism Inspection Reports to contain statement that work performed by others must be reinspected within ten days of request at a charge no greater than the original inspection fee.</p> | <p>May 22, 1998 – Rulemaking file disapproved by Office of Administrative Law. December 16, 1998 – Public Hearing. December 30, 1998 – Notice of Modifications mailed. January 11, 2001 – Public Hearing. Board voted to adopt. December 1, 2001 rulemaking file not completed by deadline. April 4, 2003 re-noticed for Public Hearing. Approved by the Office of Administrative Law - July 6, 2005.</p> |
| 1993.2 | <p>Bait Stations.</p> | <p>October 19, 2001 Board passed to adopt new language. Publication date expired. October 11, 2002 language re-noticed for Board meeting. December 23, 2002 rulemaking file under review. January 8, 2003 under DCA legal review by the Director. February 21, 2003 filed with the Office of Administrative Law. March 27, 2003 rulemaking file withdrawn from OAL pending a 15-Day Notice. July 26, 2003 – Approved by the Office of Administrative Law.</p> |
| 1993.2 | <p>Termite Bait Stations.</p> <p>Defines above and below ground termite bait stations as devices containing pesticide bait. Specifies that use of termite bait stations are a control service agreement.</p> | <p>October 8, 2015 Board voted to adopt the Act Review Committee's revisions and instructed staff to begin the rulemaking process.</p> <p>June 1, 2016 – Notice for public hearing submitted to DCA for legal review.</p> <p>August 26, 2016 – Public Notice Published for October 13, 2016 Public Hearing.</p> |

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| 1993.3 | In-Ground Termite Bait Stations. | <p>October 12, 2001 Board passed to adopt new language. Publication date expired. Language re-noticed for October 11, 2002 Board meeting. Rulemaking package under review 12-23-02. January 8, 2003 – Under DCA legal review by the Director. February 21, 2003 filed with the Office of Administrative Law. March 27, 2003 rulemaking file withdrawn from OAL pending a 15-Day Notice. July 26, 2003 - Approved by the Office of Administrative Law.</p> |
| 1993.3 | <p>In-Ground Termite Bait Stations.</p> <p>Being repealed. Language in 1993.2 & 1993.4 make this section obsolete.</p> | <p>October 8, 2015 Board voted to adopt the Act Review Committee's recommendation to repeal this section and instructed staff to begin the rulemaking process.</p> <p>June 1, 2016 – Notice for public hearing submitted to DCA for legal review.</p> <p>August 26, 2016 - Public Notice Published for October 13, 2016 Public Hearing.</p> |
| 1993.4 | <p>Termite Monitoring Devices.</p> <p>New section defining termite monitoring devices and providing guidelines for their installation and use.</p> | <p>October 8, 2015 Board voted to adopt the Act Review Committee's recommended addition of this section and instructed staff to begin the rulemaking process.</p> <p>June 1, 2016 – Notice for public hearing submitted to DCA for legal review.</p> <p>August 26, 2016 - Public Notice Published for October 13, 2016 Public Hearing.</p> |

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| 1996 | Pre-Treatment - Specifies Pre-Treatment Inspection Report/Notice of Intent form. | August 30, 1996 - Public Hearing. Amendment was not adopted. Board referred to Pre-Treatment Committee. |
| | Inspection Report - Includes a first page of the Inspection Report for scanning purposes. | August 13, 1998 - Approved by the Office of Administrative Law. |
| 1996 | Requirements for Reporting All Inspections Under Section 8516(b). | January 18, 2002 Public Hearing - Board voted to adopt. Form Rev. date completed 1-15-03. April 4, 2003 Board again voted to adopt regulatory lang. Noticed for Public Hearing July 15, 2005. December 30, 2005 - Approved by the Office of Administrative Law. |
| 1996.2 | Revised Inspection Report Form and Standard Notice of work Completed and Not Completed. | December 16, 2002 - Approved by the Office of Administrative Law. |
| 1996.1 | Inspection and Completion Tags - The completion tag shall include the method(s) of treatment. Completion tag to include the trade name of any pesticide used and active ingredient. | July 18, 2003 Public Hearing - Board members voted to adopt. Rulemaking file placed on hold due to Executive Order. Approved by Office of Administrative Law August 12, 2004 Noticed for Public Hearing January 21, 2010 Public hearing held January 21, 2010 - Board voted to adopt. May 18, 2010, Rulemaking File submitted to DPR for approval. September 23, 2010 DPR returned package with approval signatures. September 30, 2010 Rulemaking File submitted to OAL. November 8, 2010 approved by OAL. |
| 1996.2 | Completion Notice - Includes a first page of the Completion Notice for scanning purposes. | August 13, 1998 - Approved by the Office of Administrative Law. |
| | Revised Completion Notice Form. | January 18, 2002 Public Hearing - Adopted by the Board. December 16, 2002 - Approved by the Office of Administrative Law. |

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| <p>1996.3</p> | <p>Requirements for Reporting property addresses. Adopt new language that will provide guidelines of what is required when filing the WDO form with the Board.</p> <p>Increase filing fee to \$2.00 on form</p> <p>Increase filing fee to \$2.50 on form</p> | <p>March 17, 2003 Rulemaking file on hold due to Executive Order.</p> <p>July 18, 2003 Public Hearing - Board voted to adopt after a 15-Day Notice of modified language.</p> <p>Approved by Office of Administrative Law July 13, 2004</p> <p>Noticed for Public Hearing July 24, 2009 July 24, 2009 - Board voted to adopt. Sept. 3, 2009 - Rulemaking file submitted to DCA for review.</p> <p>January 21, 2010, Board considered 15-day comments to increase fee to \$2.50. Board voted to adopt at \$2.50 per activity.</p> <p>May 20, 2010 Office of Administrative Law approves Rulemaking File to increase fee to \$2.50 effective July 1, 2010.</p> |
| <p>1997</p> | <p>Filing Fee - Inspection Reports and Completion Notices.</p> <p>Filing Fee - Inspection Reports and Completion Notices - Fee increase.</p> | <p>October 15, 1996 - Approved by the Office of Administrative Law.</p> <p>December 16, 1998 - Public Hearing Adopted by Board.</p> <p>Rulemaking file not submitted based on recommendations from DCA that fee increase not necessary to fund condition.</p> |

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| 1997 | <p>Filing Fee – WDO Activity Filing Fee.</p> <p>Filing Fee – Increase WDO Activity Filing Fee to \$2.00.</p> <p>15-Day Modified Text to increase fee to \$2.50 per activity effective July 1, 2010</p> | <p>December 16, 1999 – Non-substantive change without regulatory effect filed with the Office of Administrative Law.</p> <p>January 28, 2000 - Approved by the Office of Administrative Law.</p> <p>Noticed for Public Hearing July 24, 2009 July 24, 2009 Board voted to adopt. Sept. 3, 2009 – Rulemaking file submitted to DCA for review.</p> <p>Dec. 28, 2009 – Board passed unanimously to modify language with a 15-Day Notice. Notice mailed on December 29, 2009, final comments due January 13, 2010</p> <p>January 21, 2010, Board considered 15-day comments to increase fee to \$2.50. Board voted to adopt at \$2.50 per activity.</p> <p>May 20, 2010 Office of Administrative Law approves Rulemaking File to increase fee to \$2.50 effective July 1, 2010.</p> |
| 1999.5 | <p>Advertising Guidelines.</p> | <p>June 18, 1999 – Public Hearing</p> <p>August 27, 1999 – Modified language mailed</p> <p>November 22, 2001 approved by the Office of Administrative Law.</p> <p>September 24, 2002 non-substantive change without regulatory effect approved by the Office of Administrative Law.</p> <p>October 2007 – Noticed for Public Hearing to amend the current regulation.</p> <p>January 2008 – Board moved to request further analysis by Legal Counsel and staff.</p> <p>June 26, 2008 - Rulemaking file submitted to DCA for Director review.</p> |

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| <p>1999.5 (cont.)</p> | <p>Include an introductory statement to clarify the purpose of the regulation. Clarify that certain subsections pertain only to Branch 3 companies.</p> | <p>September 11, 2008 - Rulemaking file submitted to OAL for approval. October 24, 2008 - Rulemaking file disapproved by OAL. February 19, 2009 - Task Force meeting held to discuss OAL's disapproval March 2009 - Extension granted by OAL. June 2, 2009 - Resubmittal submitted to DCA for Director review. June 8, 2009 - Resubmittal submitted to OAL for approval. July 17, 2009 - Approved by OAL</p> |
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California

LEGISLATIVE INFORMATION

AB-551 Rental property: bed bugs. (2015-2016)

Assembly Bill No. 551

CHAPTER 599

An act to amend Section 1942.5 of, to amend and renumber Section 1954.1 of, and to add Chapter 2.8 (commencing with Section 1954.600) to Title 5 of Part 4 of Division 3 of, the Civil Code, relating to tenancy.

[Approved by Governor September 25, 2016. Filed with Secretary of State September 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 551, Nazarian. Rental property: bed bugs.

Existing law imposes various obligations on landlords who rent out residential dwelling units, including the general requirement that the building be in a fit condition for human occupation. Among other responsibilities, existing law requires a landlord of a residential dwelling unit to provide each new tenant who occupies the unit with a copy of the notice provided by a registered structural pest control company, as specified, if a contract for periodic pest control service has been executed.

This bill would prescribe the duties of landlords and tenants with regard to the treatment and control of bed bugs. The bill would require a landlord to provide a prospective tenant, on and after July 1, 2017, and to all other tenants by January 1, 2018, information about bed bugs, as specified. The bill would require that the landlord provide notice to the tenants of those units inspected by the pest control operator of the pest control operator's findings within 2 business days, as specified. The bill would prohibit a landlord from showing, renting, or leasing a vacant dwelling unit that the landlord knows has a bed bug infestation, as specified.

This bill would incorporate additional changes to Section 1942.5 of the Civil Code, proposed by AB 2881, that would become operative only if this bill and AB 2881 are chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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

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

SECTION 1. Section 1942.5 of the Civil Code is amended to read:

1942.5. (a) If the lessor retaliates against the lessee because of the exercise by the lessee of his or her rights under this chapter or because of his or her complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of his or her rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days of any of the following:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, has provided notice of a suspected bed bug infestation, or has made an oral complaint to the lessor regarding tenantability.

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability.

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice.

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability.

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke subdivision (a) more than once in any 12-month period.

(c) It is unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of those acts, for the purpose of retaliating against the lessee because he or she has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law. In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor's conduct was, in fact, retaliatory.

(d) Nothing in this section shall be construed as limiting in any way the exercise by the lessor of his or her rights under any lease or agreement or any law pertaining to the hiring of property or his or her right to do any of the acts described in subdivision (a) or (c) for any lawful cause. Any waiver by a lessee of his or her rights under this section is void as contrary to public policy.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (c), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do any of the other acts described in subdivision (a) or (c). If the statement is controverted, the lessor shall establish its truth at the trial or other hearing.

(f) Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following:

(1) The actual damages sustained by the lessee.

(2) Punitive damages in an amount of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to that act.

(g) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action.

(h) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

SEC. 1.5. Section 1942.5 of the Civil Code is amended to read:

1942.5. (a) If the lessor retaliates against the lessee because of the exercise by the lessee of his or her rights under this chapter or because of his or her complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of his or her rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days of any of the following:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, has provided notice of a suspected bed bug infestation, or has made an oral complaint to the lessor regarding tenantability.

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability.

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice.

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability.

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke subdivision (a) more than once in any 12-month period.

(c) Notwithstanding subdivision (a), it is unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of those acts, for the purpose of retaliating against the lessee because he or she has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law. In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor's conduct was, in fact, retaliatory.

(d) Nothing in this section shall be construed as limiting in any way the exercise by the lessor of his or her rights under any lease or agreement or any law pertaining to the hiring of property or his or her right to do any of the acts described in subdivision (a) or (c) for any lawful cause. Any waiver by a lessee of his or her rights under this section is void as contrary to public policy.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (c), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do any of the other acts described in subdivision (a) or (c). If the statement is controverted, the lessor shall establish its truth at the trial or other hearing.

(f) Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following:

(1) The actual damages sustained by the lessee.

(2) Punitive damages in an amount of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to that act.

(g) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action.

(h) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

SEC. 2. Section 1954.1 of the Civil Code is amended and renumbered to read:

1954.05. In any general assignment for the benefit of creditors, as defined in Section 493.010 of the Code of Civil Procedure, the assignee shall have the right to occupy, for a period of up to 90 days after the date of the assignment, any business premises held under a lease by the assignor upon payment when due of the monthly rental reserved in the lease for the period of such occupancy, notwithstanding any provision in the lease, whether heretofore or hereafter entered into, for the termination thereof upon the making of the assignment or the insolvency of the lessee or other condition relating to the financial condition of the lessee. This section shall be construed as establishing the reasonable rental value of the premises recoverable by a landlord upon a holding-over by the tenant upon the termination of a lease under the circumstances specified herein.

SEC. 3. Chapter 2.8 (commencing with Section 1954.600) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2.8 Bed Bug Infestations

1954.600. The Legislature finds and declares:

(a) Controlling bed bugs is uniquely challenging, as bed bug resistance to existing insecticidal control measures is significant. Cooperation among landlords, tenants, and pest control operators is required for successful control. With cooperation among landlords, tenants, and pest control operators, most bed bug infestations can be successfully controlled.

(b) Effective control is more likely to occur when landlords and tenants are informed of the best practices for bed bug control.

(c) Early detection and reporting of bed bugs is an important component required for preventing bed bug infestations. Tenants should not face retaliation for reporting a problem.

(d) Lack of cooperation by landlords and tenants can undermine pest control operator efforts to identify the presence of bed bugs and control an infestation. Depending on the treatment strategy, it is often critical that tenants cooperate with pest control operators by reducing clutter, washing clothes, or performing other activities. Likewise, inadequate or untimely response or planning by landlords may exacerbate an infestation.

(e) Pest control operators with knowledge and education in current best practices for bed bug management, such as those created by the National Pest Management Association (NPMA), are best equipped to help property owners and tenants eradicate bed bugs from their home.

(f) The Structural Pest Control Board should incorporate training in bed bug management based on the National Pest Management Association (NPMA) best practices for the issuance or renewal of a Branch 2 operator, field representative, or applicator license.

1954.601. For purposes of this chapter, the term "pest control operator" means an individual holding a Branch 2 operator, field representative, or applicator license from the Structural Pest Control Board.

1954.602 (a) A landlord shall not show, rent, or lease to a prospective tenant any vacant dwelling unit that the landlord knows has a current bed bug infestation.

(b) This section does not impose a duty on a landlord to inspect a dwelling unit or the common areas of the premises for bed bugs if the landlord has no notice of a suspected or actual bed bug infestation. If a bed bug infestation is evident on visual inspection, the landlord shall be considered to have notice pursuant to this section.

1954.603. On and after July 1, 2017, prior to creating a new tenancy for a dwelling unit, a landlord shall provide a written notice to the prospective tenant as provided in this section. This notice shall be provided to all other tenants by January 1, 2018. The notice shall be in at least 10-point type and shall include, but is not limited to, the following:

(a) General information about bed bug identification, behavior and biology, the importance of cooperation for prevention and treatment, and the importance of and for prompt written reporting of suspected infestations to the landlord. The information shall be in substantially the following form:

Information about Bed Bugs

Bed bug Appearance: Bed bugs have six legs. Adult bed bugs have flat bodies about 1/4 of an inch in length. Their color can vary from red and brown to copper colored. Young bed bugs are very small. Their bodies are about 1/16 of an inch in length. They have almost no color. When a bed bug feeds, its body swells, may lengthen, and becomes bright red, sometimes making it appear to be a different insect. Bed bugs do not fly. They can either crawl or be carried from place to place on objects, people, or animals. Bed bugs can be hard to find and identify because they are tiny and try to stay hidden.

Life Cycle and Reproduction: An average bed bug lives for about 10 months. Female bed bugs lay one to five eggs per day. Bed bugs grow to full adulthood in about 21 days.

Bed bugs can survive for months without feeding.

Bed bug Bites: Because bed bugs usually feed at night, most people are bitten in their sleep and do not realize they were bitten. A person's reaction to insect bites is an immune response and so varies from person to person. Sometimes the red welts caused by the bites will not be noticed until many days after a person was bitten, if at all.

Common signs and symptoms of a possible bed bug infestation:

- Small red to reddish brown fecal spots on mattresses, box springs, bed frames, mattresses, linens, upholstery, or walls.
- Molted bed bug skins, white, sticky eggs, or empty eggshells.
- Very heavily infested areas may have a characteristically sweet odor.
- Red, itchy bite marks, especially on the legs, arms, and other body parts exposed while sleeping. However, some people do not show bed bug lesions on their bodies even though bed bugs may have fed on them.

For more information, see the Internet Web sites of the United States Environmental Protection Agency and the National Pest Management Association.

(b) The procedure to report suspected infestations to the landlord.

1954.604. Entry to inspect a tenant's dwelling unit shall comply with Section 1954. Entry to inspect any unit selected by the pest control operator and to conduct followup inspections of surrounding units until bed bugs are eliminated is a necessary service for the purpose of Section 1954. Tenants shall cooperate with the inspection to facilitate the detection and treatment of bed bugs, including providing requested information that is necessary to facilitate the detection and treatment of bed bugs to the pest control operator.

1954.605. The landlord shall notify the tenants of those units inspected by the pest control operator pursuant to Section 1954.604 of the pest control operator's findings. The notification shall be in writing and made within two business days of receipt of the pest control operator's findings. For confirmed infestations in common areas, all tenants shall be provided notice of the pest control operator's findings.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 1942.5 of the Civil Code proposed by both this bill and Assembly Bill 2881. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 1942.5 of the Civil Code, and (3) this bill is enacted after Assembly Bill 2881, in which case Section 1 of this bill shall not become operative.



California

LEGISLATIVE INFORMATION

AB-1874 Structural pest control. (2015-2016)

Assembly Bill No. 1874

CHAPTER 181

An act to amend Section 8506.2 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor August 25, 2016. Filed with Secretary of State August 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1874, Wood. Structural pest control.

Existing law defines, licenses, and regulates structural pest control operators and creates the Structural Pest Control Board in the Department of Consumers Affairs to administer these provisions. Existing law defines a registered company to be specified types of business organizations registered with the board to engage in the practice of structural pest control, and defines a "qualifying manager" as the licensed operator or operators designated by a registered company to supervise the daily business of the company and to be available to supervise and assist the company's employees. Existing law prescribes 3 different classifications of structural pest control licenses, which are termed branches, based on the types of pest control work permitted. Existing law makes a violation of provisions regulating structural pest control operators a misdemeanor.

This bill would revise the definition of "qualifying manager" to require that the licensed operator be physically present at the principal office or branch office location for a minimum of 9 days every 3 consecutive calendar months, and to require that these days be documented and provided to the board upon request.

By expanding the definition of a crime, this bill would impose a state-mandated local program.

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.

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

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

SECTION 1. Section 8506.2 of the Business and Professions Code is amended to read:

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 physically present at the principal office or branch office location for a minimum of nine days every three consecutive calendar months to supervise and assist the company's employees. These days shall be documented and provided to the board upon request.

SEC. 2. 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-2529 Structural pest control. (2015-2016)

Assembly Bill No. 2529

CHAPTER 359

An act to amend Sections 8506.1 and 8616.9 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor September 14, 2016. Filed with Secretary of State September 14, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2529, Linder. Structural pest control.

Existing law defines, licenses, and regulates structural pest control operators and creates the Structural Pest Control Board in the Department of Consumers Affairs to administer these provisions. Existing law defines a registered company to be any of specified types of business organizations registered with the board to engage in the practice of structural pest control and defines operators, field representatives, and applicators as specified classes of individuals licensed by the board to practice structural pest control. Existing law prescribes 3 different classifications of structural pest control licenses based on the types of pest control work permitted, which are termed branches. Existing law makes a violation of these provisions a misdemeanor, punishable by a fine of not less than \$100 and not more \$1,000, or 6 months in jail, or both.

Existing law authorizes a company registered with the board to engage in the practice of structural pest control to hire or employ individuals who are unlicensed to perform contracts covering wood destroying organisms only after an operator or field representative completes the negotiation or signing of the contract covering the job.

This bill would specify that the registered company may hire or employ unlicensed individuals to perform work on contracts or service agreements, as defined, covering Branch 1, 2, or 3, or combinations thereof.

Existing law designates the county agricultural commissioner as the lead agency for inspections and routine investigations of pesticide use by the board licensees and registered companies. Existing law prescribes the circumstances under which an employer may be cited by the commissioner if, during an inspection or investigation, an employee is found not wearing personal protective clothing required by regulation.

The bill would recast these provisions to permit referral for statewide disciplinary action against the employer, suspension of the employer, the assessment of an administrative fine against both the employer and the employee not to exceed \$5,000 if the employee is found to not wear personal protective equipment required by label or regulation. The bill would, if disciplinary action is not taken against the employer and the employer is not assessed an administrative fine, permit an administrative fine to be assessed against the employee if an employer provides evidence of specified employer practices and would also include, in this regard, the requirement that the employer has not been disciplined or assessed an administrative fine for a violation of the requirement for the previous 2 years.

By expanding the definition of a crime, this bill would impose a state-mandated local program.

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.

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

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

SECTION 1. Section 8506.1 of the Business and Professions Code is amended to read:

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

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

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

SEC. 2. Section 8616.9 of the Business and Professions Code is amended to read:

8616.9. (a) If an employee is found during an inspection or investigation not wearing personal protective equipment required by label or regulation, the commissioner may refer the violation by the employer for statewide disciplinary action by the board or suspend the right of the employer to work in the county for up to three working days. If the commissioner does neither, the commissioner may assess an administrative fine against both the employer and the employee. If the commissioner takes no action against the employer for this violation, the commissioner may assess an administrative fine against the employee if the employer provides evidence of all of the following:

(1) The employer has a written training program, has provided training to the employee, and has maintained a record of training as required by label or regulation.

(2) The employer provided personal protective equipment required by label or regulation, the equipment was available at the site when the employee was handling the pesticide or pesticides, and the equipment was properly maintained and in good working order.

(3) The employer is in compliance with regulations relating to the workplace and supervision of employees.

(4) The employer has documented implementation and adheres to a written company policy of disciplinary action for employees who violate company policy or state or local laws or regulations.

(5) The employer has not been disciplined or assessed an administrative fine for a violation of the personal protective equipment requirement for the previous two years.

(b) (1) An administrative fine assessed against an employer pursuant to this section shall not be less than seven hundred dollars (\$700) nor more than five thousand dollars (\$5,000). An administrative fine assessed against an employee pursuant to this section shall not be less than two hundred fifty dollars (\$250) nor more than five thousand dollars (\$5,000).

(2) In assessing an administrative fine pursuant to this section, the board or commissioner shall consider the appropriateness of the amount of the fine to the gravity of the violation, the good faith of the licensee, and the history of prior violations.

(c) Nothing in this section is intended to limit the authority of the commissioner to take action against the employee pursuant to Section 8617, including suspension of the employee's license or referral of the violation for statewide disciplinary action by the board pursuant to Section 8620.

SEC. 3. 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

SB-1039 Professions and vocations. (2015-2016)

ENROLLED SEPTEMBER 02, 2016
PASSED IN SENATE AUGUST 30, 2016
PASSED IN ASSEMBLY AUGUST 29, 2016
AMENDED IN ASSEMBLY AUGUST 25, 2016
AMENDED IN ASSEMBLY AUGUST 19, 2016
AMENDED IN ASSEMBLY AUGUST 01, 2016
AMENDED IN ASSEMBLY JUNE 30, 2016
AMENDED IN ASSEMBLY JUNE 22, 2016
AMENDED IN SENATE MAY 31, 2016
AMENDED IN SENATE APRIL 21, 2016
AMENDED IN SENATE APRIL 12, 2016
AMENDED IN SENATE APRIL 07, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL

No. 1039

Introduced by Senator Hill

February 12, 2016

An act to amend Sections 655, 1944, 2733, 2786.5, 2811, 2811.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2, 4128.2, 4830, 4999, 4999.2, 8516, and 8518 of, to amend, repeal, and add Sections 4400, 7137, and 7153.3 of, to add Sections 2746.53 and 3030 to, to repeal Sections 4999.1, 4999.3, 4999.4, and 4999.6 of, and to repeal and add Sections 2546.9, 2565, 2566, 2566.1, and 4999.5 of, the Business and Professions Code, to amend Section 1348.8 of the Health and Safety Code, and to amend Section 10279 of the Insurance Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1039, Hill. Professions and vocations.

(1) Existing law requires the Office of Statewide Health Planning and Development to establish the Health Professions Education Foundation to, among other things, solicit and receive funds for the purpose of providing scholarships, as specified.

(6) The Veterinary Medicine Practice Act provides for the licensure and regulation of veterinarians by the Veterinary Medical Board, which is within the Department of Consumer Affairs. Under the act, it is unlawful and a misdemeanor for any person to practice veterinary medicine in this state unless he or she holds a valid, unexpired, and unrevoked license issued by the board, except under specified circumstances, including regularly licensed veterinarians in actual consultation from other states, regularly licensed veterinarians actually called from other states to attend cases in this state who do not open an office or appoint a place to do business within the state, or veterinarians employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties.

This bill would replace those exceptions with an exception for veterinarians holding a current, valid license in good standing in another state or country who provide assistance to a California licensed veterinarian and attend on a specific case, subject to specified conditions, and an exception for veterinarians called into the state by a law enforcement agency or animal control agency. By requiring additional persons to be licensed under the act that were previously exempt, the bill would expand the definition of an existing crime and, therefore, would result in a state-mandated local program.

(7) Existing law requires businesses that employ, or contract or subcontract with, the full-time equivalent of 5 or more persons functioning as health care professionals, as defined, whose primary function is to provide telephone medical advice, that provide telephone medical advice services to a patient at a California address to be registered with the Telephone Medical Advice Services Bureau and further requires telephone medical advice services to comply with the requirements established by the Department of Consumer Affairs, as specified.

This bill would discontinue the requirement that those businesses be registered with the bureau, would instead make the respective healing arts licensing boards responsible for enforcing those requirements and any other laws and regulations affecting those health care professionals licensed in California, and would make conforming and related changes.

(8) The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. That law also prescribes various fees to be paid by licensees and applicants for licensure, requires the board to set the fees by regulation, and requires fees and civil penalties received under that law to be deposited in the Contractors' License Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill, on and after July 1, 2017, would raise specified fees, would instead authorize the board to set the fees by regulation, and would require the board to establish criteria for the approval of expedited processing of applications, as specified. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(9) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board, which is within the Department of Consumer Affairs, and requires a licensee to pay a specified license fee. Existing law makes any violation of those provisions punishable as a misdemeanor. Existing law places certain requirements on a registered company or licensee with regards to wood destroying pests or organisms, including that a registered company or licensee is prohibited from commencing work on a contract until an inspection has been made by a licensed Branch 3 field representative or operator, that the address of each property inspected or upon which work was completed is required to be reported to the board, as specified, and that a written inspection report be prepared and delivered to the person requesting the inspection or his or her agent. Existing law requires the original inspection report to be submitted to the board upon demand. Existing law requires that written report to contain certain information, including a foundation diagram or sketch of the structure or portions of the structure inspected, and requires the report, and any contract entered into, to expressly state if a guarantee for the work is made, and if so, the terms and time period of the guarantee. Existing law establishes the Structural Pest Control Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would require the operator who is conducting the inspection prior to the commencement of work to be employed by a registered company, except as specified. The bill would not require the address of an inspection report prepared for use by an attorney for litigation to be reported to the board or assessed a filing fee. The bill would require instead that the written inspection report be prepared and delivered to the person requesting it, the property owner, or the property owner's designated agent, as specified. The bill would allow an inspection report to be a complete, limited, supplemental, or reinspection report, as defined. The bill would require all

inspection reports to be submitted to the board and maintained with field notes, activity forms, and notices of completion until one year after the guarantee expires if the guarantee extends beyond 3 years. The bill would require the inspection report to clearly list the infested or infected wood members or parts of the structure identified in the required diagram or sketch. By placing new requirements on a registered company or licensee, this bill would expand an existing crime and would, therefore, impose a state-mandated local program.

Existing law requires a registered company to prepare a notice of work completed to give to the owner of the property when the work is completed.

This bill would make this provision applicable only to work relating to wood destroying pests and organisms.

(10) 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.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

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

SECTION 1. It is the intent of the Legislature to enact future legislation that would establish a Dental Corps Scholarship Program within the Health Professions Education Foundation to increase the supply of dentists serving in medically underserved areas.

SEC. 2. Section 655 of the Business and Professions Code is amended to read:

655. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Health plan" means a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(2) "Optical company" means a person or entity that is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, health plans, or dispensing opticians of lenses, frames, optical supplies, or optometric appliances or devices or kindred products.

(3) "Optometrist" means a person licensed pursuant to Chapter 7 (commencing with Section 3000) or an optometric corporation, as described in Section 3160.

(4) "Registered dispensing optician" means a person licensed pursuant to Chapter 5.5 (commencing with Section 2550).

(5) "Therapeutic ophthalmic product" means lenses or other products that provide direct treatment of eye disease or visual rehabilitation for diseased eyes.

(b) No optometrist may have any membership, proprietary interest, coownership, or any profit-sharing arrangement, either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with any registered dispensing optician or any optical company, except as otherwise permitted under this section.

(c) (1) A registered dispensing optician or an optical company may operate, own, or have an ownership interest in a health plan so long as the health plan does not directly employ optometrists to provide optometric services directly to enrollees of the health plan, and may directly or indirectly provide products and services to the health plan or its contracted providers or enrollees or to other optometrists. For purposes of this section, an optometrist may be employed by a health plan as a clinical director for the health plan pursuant to Section 1367.01 of the Health and Safety Code or to perform services related to utilization management or quality assurance or other similar related services that do not require the optometrist to directly provide health care services to enrollees. In addition, an optometrist serving as a clinical director may not employ optometrists to provide health care services to enrollees of the health plan for which the optometrist is serving as clinical director. For the purposes of this section, the health plan's utilization management and quality assurance programs that are consistent with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) do not constitute providing health care services to enrollees.

SEC. 38. Section 7153.3 of the Business and Professions Code is amended to read:

7153.3. (a) To renew a home improvement salesperson registration, which has not expired, the registrant shall before the time at which the registration would otherwise expire, apply for renewal on a form prescribed by the registrar and pay a renewal fee prescribed by this chapter. Renewal of an unexpired registration shall continue the registration in effect for the two-year period following the expiration date of the registration, when it shall expire if it is not again renewed.

(b) An application for renewal of registration is delinquent if the application is not postmarked or received via electronic transmission as authorized by Section 7156.6 by the date on which the registration would otherwise expire. A registration may, however, still be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the registrar and the payment of the renewal fee prescribed by this chapter and a delinquent renewal penalty in the amount of twenty-five dollars (\$25). If a registration is not renewed within three years, the person shall make a new application for registration pursuant to Section 7153.1.

(c) The registrar may refuse to renew a registration for failure by the registrant to complete the application for renewal of registration. If a registrant fails to return the application rejected for insufficiency or incompleteness within 90 days from the original date of rejection, the application and fee shall be deemed abandoned. Any application abandoned may not be reinstated. However, the person may file a new application for registration pursuant to Section 7153.1.

The registrar may review and accept the petition of a person who disputes the abandonment of his or her renewal application upon a showing of good cause. This petition shall be received within 90 days of the date the application for renewal is deemed abandoned.

(d) This section shall become inoperative on July 1, 2017, and as of January 1, 2018, is repealed.

SEC. 39. Section 7153.3 is added to the Business and Professions Code, to read:

7153.3. (a) To renew a home improvement salesperson registration, which has not expired, the registrant shall before the time at which the registration would otherwise expire, apply for renewal on a form prescribed by the registrar and pay a renewal fee prescribed by this chapter. Renewal of an unexpired registration shall continue the registration in effect for the two-year period following the expiration date of the registration, when it shall expire if it is not again renewed.

(b) An application for renewal of registration is delinquent if the application is not postmarked or received via electronic transmission as authorized by Section 7156.6 by the date on which the registration would otherwise expire. A registration may, however, still be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the registrar and the payment of the renewal fee prescribed by this chapter and a delinquent renewal penalty equal to 50 percent of the renewal fee. If a registration is not renewed within three years, the person shall make a new application for registration pursuant to Section 7153.1.

(c) (1) The registrar may refuse to renew a registration for failure by the registrant to complete the application for renewal of registration. If a registrant fails to return the application rejected for insufficiency or incompleteness within 90 days from the original date of rejection, the application and fee shall be deemed abandoned. Any application abandoned may not be reinstated. However, the person may file a new application for registration pursuant to Section 7153.1.

(2) The registrar may review and accept the petition of a person who disputes the abandonment of his or her renewal application upon a showing of good cause. This petition shall be received within 90 days of the date the application for renewal is deemed abandoned.

(d) This section shall become operative on July 1, 2017.

SEC. 40. Section 8516 of the Business and Professions Code is amended to read:

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

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

Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section 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). The address of an inspection report prepared for use by an attorney for litigation purposes shall not be required to be reported to the board and shall not be assessed a filing fee.

A written inspection report conforming to this section and a form approved by the board shall be prepared and delivered to the person requesting the inspection and the property owner, or to the property owner's designated agent, within 10 business days from the start of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board or the property owner. An inspection report may be a complete, limited, supplemental, or reinspection report, as defined by Section 1993 of Title 16 of the California Code of Regulations. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all inspection reports, field notes, and activity forms.

Reports 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. All inspection reports or copies thereof shall be submitted to the board upon demand within two business days. The following shall be set forth in the report:

(1) The start date of the inspection and the name of the licensed field representative or operator making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of the property owner and any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, including the approximate location of any infested or infected areas evident, and the parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist. Reporting of the infested or infected wood members, or parts of the structure identified, shall be listed in the inspection report to clearly identify them, as is typical in standard construction components, including, but not limited to, siding, studs, rafters, floor joists, fascia, subfloor, sheathing, and trim boards.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control or prevention as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate or bid shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing each corrective measure.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection." Each reinspection shall also identify the original report by date.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 business days after a reinspection has been ordered.

(13) The inspection report shall contain the following statement, printed in boldface type:

"NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company."

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separate report is available pursuant to this subdivision. If a separate report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separate report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the property owner or the property owner's designated agent chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separate form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those

conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect. If a guarantee extends beyond three years, the registered company shall maintain all original inspection reports, field notes, activity forms, and notices of completion for the duration of the guarantee period and for one year after the guarantee expires.

(g) For purposes of this section, "control service agreement" means an agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms covered by the control service agreement.

(B) Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) The original inspection report, the control service agreement, and completion report shall be maintained for three years after the cancellation of the control service agreement.

(3) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(4) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(5) Under a control service agreement, a written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

- (B) The infestation or infection is covered by the control service agreement.
- (C) There is no additional charge for correcting the infestation or infection.
- (D) Correction of the infestation or infection takes place within 45 days of its discovery.
- (E) Correction of the infestation or infection does not include fumigation.
- (6) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.
- (i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 41. 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 this section 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.
- (g) This section shall only apply to work relating to wood destroying pests or organisms.

SEC. 42. Section 1348.8 of the Health and Safety Code is amended to read:

- 1348.8.** (a) A health care service plan that provides, operates, or contracts for telephone medical advice services to its enrollees and subscribers shall do all of the following:
- (1) Ensure that the in-state or out-of-state telephone medical advice service complies with the requirements of Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.
 - (2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:
 - (A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.
 - (B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a dentist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a dental hygienist pursuant to Article 7 (commencing with Section 1740) of Chapter 4 of Division 2 of the



California

LEGISLATIVE INFORMATION

SB-1194 Professions and vocations: board actions and regulations. (2015-2016)

| Date | Action |
|----------|--|
| 08/24/16 | August 24 set for first hearing canceled at the request of author. |
| 08/22/16 | Joint Rule 62(a) suspended. |
| 08/19/16 | Re-referred to Com. on B. & P. pursuant to Assembly Rule 77.2. |
| 08/19/16 | Ordered to third reading. |
| 08/19/16 | Read third time and amended. (Ayes 73. Noes 0. Page 5959.) |
| 08/15/16 | Read second time. Ordered to third reading. |
| 08/12/16 | From committee: Do pass. (Ayes 20. Noes 0.) (August 11). |
| 08/03/16 | August 3 set for first hearing. Placed on APPR. suspense file. |
| 06/28/16 | From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 16. Noes 0.) (June 28). Re-referred to Com. on APPR. |
| 06/13/16 | Referred to Com. on B. & P. |
| 06/02/16 | In Assembly. Read first time. Held at Desk. |
| 06/01/16 | Read third time. Passed. (Ayes 39. Noes 0. Page 4106.) Ordered to the Assembly. |
| 05/31/16 | Read second time and amended. Ordered to third reading. |
| 05/27/16 | From committee: Do pass as amended. (Ayes 7. Noes 0. Page 4005.) (May 27). |
| 05/20/16 | Set for hearing May 27. |
| 05/09/16 | May 9 hearing: Placed on APPR. suspense file. |
| 04/29/16 | Set for hearing May 9. |
| 04/21/16 | Read second time and amended. Re-referred to Com. on APPR. |
| 04/20/16 | From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 9. Noes 0. Page 3591.) (April 18). |
| 04/11/16 | From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D. |
| 03/29/16 | Set for hearing April 18. |
| 03/03/16 | Referred to Com. on B., P. & E.D. |
| 02/19/16 | From printer. May be acted upon on or after March 20. |
| 02/18/16 | Introduced. Read first time. To Com. on RLS. for assignment. To print. |

STRUCTURAL PEST CONTROL BOARD

PROCEDURES

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

Revised 10/16/2014

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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
Amended 10/16/14

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

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

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

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.

Reference:

History: Adopted 10/16/14

L I C E N S I N G
a n d
E X A M I N A T I O N

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

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 returned 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

SUBJECT: APPLICATOR EXAMINATION

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

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

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

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.

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

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 payment 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

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

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:

Operator – Branch I

- 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

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

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.

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

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.

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

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

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.

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

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

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

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

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

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

CE IPM REVIEW COMMITTEE TIMELINE OF EVENTS

Over the course of 7 meetings which began in May, 2014 and ended in April, 2015, the Continuing Education Integrated Pest Management (CE IPM) Review Committee developed several recommendations that were presented to, and approved by the Board at the July 22 & 23, 2015 meeting in Ontario. Below is the timeline of events that lead to the current status of those recommendations. For reference, the Board approved recommendations of the CE IPM Review Committee are enclosed.

July 23, 2015 – The recommendations of the CE IPM Review Committee were presented to the Board and approved unanimously. Staff was instructed to prepare a regulatory proposal to enact the recommendations of the CE IPM Review Committee, and to bring the proposal before the Board for approval.

October 8, 2015 – Staff asked the Board for guidance on how to proceed with elements of the regulatory proposal related to hour requirements for individuals who hold a license in multiple branches. The Board instructed staff to continue in the development of a regulatory proposal and to make the changes that are necessary to resolve issues that arise during the process.

The proposed Federal continuing education / training requirements were brought to the Board's attention and identified as a future agenda item to be discussed further at the January, 2016 meeting.

January 14, 2016 – The Board held a discussion and ultimately decided to delay the implementation of the CE IPM Review Committee's recommendations until it was clear how they would be impacted by the proposed Federal continuing education and training guidelines.

RECOMMENDATIONS OF THE STRUCTURAL PEST CONTROL BOARD
CONTINUING EDUCATION INTEGRATED PEST MANAGEMENT REVIEW COMMITTEE

RECOMMENDATION #1

The creation of 3 new Continuing Education (CE) categories, to replace the existing categories, to be named, Laws & Regulations (L&R), Application & Intervention (A&I), and Integrated Pest Management (IPM).

Below is a breakdown of the content that has been assigned to the new Continuing Education categories which will be used as a guide for Continuing Education providers and the Board during the course approval process.

LAWS & REGULATIONS

All classes must cite the authority / law that the topic relates to (e.g. Business & Professions Code Section, California Code of Regulations Section, Food & Agricultural Code Section)

- Existing or New Laws and Regulations
- Structural Pest Control Act
- DPR Requirements
- CAC Requirements
- OSHA Requirements

INTEGRATED PEST MANAGEMENT

IPM here is defined as:

“Structural integrated pest management (IPM) means a systematic decision making approach to managing pests, which focuses on long-term prevention or suppression with minimal impact on human health, property, the environment, and non-target organisms. Structural IPM incorporates all reasonable measures to prevent pest problems by properly identifying pests, monitoring population dynamics, and using behavioral, physical, biological or chemical pest population control measures to reduce pests to acceptable levels.” (Taken from CCR 1984)

This excerpt has given the committee a working definition of IPM with details that further clarify the topics that would qualify for the IPM category in continuing education.

All classes must include posting and reading of IPM definition in CCR 1984. Introduction of class must discuss how this topic fits into the IPM category rather than Application and Intervention.

- Identification and Biology
- Damage and Thresholds
- Monitoring (How, What to Use, What to Look For, Reporting)
- Prevention (Long Term and Short Term, Including Pest Prevention by Design in Building and Construction.

- Entomology and Other Related Fields to the Branch Licenses
- Selection of Intervention (What was Chosen and Why)
- Management Process
- Possible Evaluation of the Selected Intervention

APPLICATION & INTERVENTION

Application and Intervention and defined as:

"If a pesticide application or other intervention is determined to be necessary, the selection and application of the intervention shall be performed in a manner that minimizes risk to people, property, the environment, and non-target organisms, while providing effective pest management.

(b) For the purpose of this section, intervention means an action, device, product or practice that is intended for the prevention, control, management, elimination or abatement of a pest." (Taken from CCR 1984)

This excerpt has given the committee direction as to what topics would be most relevant to Applicators while also being compliant with the limitation of the Applicator's license.

All classes must include posting and reading of IPM definition in CCR 1984. Introduction of class must discuss how this topic fits into the Application and Intervention category rather than IPM.

- Application of Pesticides
- Proper Use and Manner
- Calibration and Maintenance
- Use Rates or Volumes Applied
- Human Health Impacts to Misapplication
- Labels (How to Read Labels for the Products the Technician Uses)
- Worker Safety, Including Respirators, Ladders, and Fit Tests
- Environmental Impacts to Misapplication
- Water Quality
- Endangered Species
- Record Keeping (Documentation, State Mandated Forms, Treatment Records)
- Nonchemical Practices (Safety & Effective Implementation of Exclusion, Heat Treatment, Removal)

RECOMMENDATION #2

That existing total CE hour requirements for each license type and combination be applied to the corresponding new CE categories in the proportions shown below and that the hour requirement for the Laws & Regulations category be capped at 3.

Applicators – 20% L&R, 60% A&I, and 20% IPM.

Branch 1 Field Representatives and Operators – 20% L&R and 80% A&I.

Branch 2 & 3 Field Representatives – 15% L&R, 25% A&I, and 60% IPM.

Branch 1, 2, and 3 Field Representatives and Operators – 11% L&R, 46% A&I, and 43% IPM.

Please see Attachment for a chart showing the Continuing Education requirements as proposed by the Committee alongside the existing Continuing Education requirements.

RECOMMENDATION #3

To set the effective date 3 years from when any potential regulatory change resulting from the Committee's recommendations becomes operative.

RECOMMENDATION #4

That instructors be required at the beginning of their courses to make a statement informing the attendees what category, or categories the course fits into and how many hours of Continuing Education credit they will receive.

RECOMMENDATION #5

To use the list of justifications (shown below) as the rationale for the Committee's recommended changes and to use them where appropriate during the formal rulemaking process.

Justifications for Changes to Branch 1 Operator and Field Representative CE Requirements

- Changes in aeration procedures
- Minimize risks to non-target organisms
- Toxicity training
- Lack of relevant material for L&R category
- Technical changes in fumigation process in past years
- Emphasize safety of materials used (stewardship training)

Justifications for Changes to Branch 2 & 3 Operator and Field Representative CE Requirements

- IPM is underutilized to the detriment of the health and welfare of California residents
- Breadth of subject matter that needs to be covered
- Decision making process is more important than A&I in the field
- Lack of relevant material in L&R category
- Preparing industry for emerging consumer demand for IPM
- Local government adoption of IPM guidelines
- IPM practices in child care
- IPM practices in schools
- Increased pesticide levels detected in natural resources

- Human health impacts associated with pesticides

Justifications for Changes to Applicator CE Requirements

- Preparation for advances in licensure
- Improve ability to communicate with Field Representatives / Operators
- Better serve the needs of consumers
- Lack of relevant material in L&R category
- Preparing industry for emerging consumer demand for IPM
- Local government adoption of IPM guidelines
- IPM practices in child care
- IPM practices in schools

RECOMMENDATION #6

For Board staff to recommend an update to the Application for Continuing Education Activity Form (Form 43M-18) in a manner that will require Continuing Education providers to specifically list the content that will be covered in the course and how it relates to the category in which they seek approval.

RECOMMENDATION #7

For Board staff to research and recommend a proposal to accomplish in person auditing of Continuing Education courses. Staff's proposal will include specific details such as, who does the auditing, how often, which courses are audited, and how the program will be funded.

RECOMMENDATION #8

For Board staff to recommend a comprehensive system to better inform licensees of their Continuing Education requirements.

The Committee suggested that staff consider the following ideas while preparing its recommendation -

The creation of a mandatory Continuing Education course that outlines the Continuing Education requirements of the licensee.

The publication of an informational worksheet outlining Continuing Education requirements to be disseminated by the Board and / or Continuing Education providers.

| | L & R | A & I | IPM | General | Total |
|---|-------|-------|-----|---------|-------|
| Applicator | | | | | |
| Current Requirement | 4 | 6 | 2 | 0 | 12 |
| Proposed Requirement | 3 | 7 | 2 | N/A | 12 |
| | | | | | |
| Branch 1 Field Representative | | | | | |
| Current Requirement | 8 | 4 | 0 | 4 | 16 |
| Proposed Requirement | 3 | 13 | 0 | N/A | 16 |
| | | | | | |
| Branch 1 Operator | | | | | |
| Current Requirement | 8 | 4 | 0 | 4 | 16 |
| Proposed Requirement | 3 | 13 | 0 | N/A | 16 |
| | | | | | |
| Branch 2 Field Representative | | | | | |
| Current Requirement | 8 | 4 | 2 | 2 | 16 |
| Proposed Requirement | 3 | 4 | 9 | N/A | 16 |
| | | | | | |
| Branch 2 Operator | | | | | |
| Current Requirement | 8 | 4 | 2 | 2 | 16 |
| Proposed Requirement | 3 | 4 | 9 | N/A | 16 |
| | | | | | |
| Branch 3 Field Representative | | | | | |
| Current Requirement | 8 | 4 | 2 | 2 | 16 |
| Proposed Requirement | 3 | 4 | 9 | N/A | 16 |
| | | | | | |
| Branch 3 Operator | | | | | |
| Current Requirement | 8 | 4 | 2 | 2 | 16 |
| Proposed Requirement | 3 | 4 | 9 | N/A | 16 |
| | | | | | |
| Branch 2 & 3 Field Representative | | | | | |
| Current Requirement | 8 | 8 | 2 | 2 | 20 |
| Proposed Requirement | 3 | 5 | 12 | N/A | 20 |
| | | | | | |
| Branch 2 & 3 Operator | | | | | |
| Current Requirement | 8 | 8 | 2 | 2 | 20 |
| Proposed Requirement | 3 | 5 | 12 | N/A | 20 |
| | | | | | |
| Branch 1, 2 & 3 Field Representative | | | | | |
| Current Requirement | 8 | 12 | 2 | 2 | 24 |
| Proposed Requirement | 3 | 11 | 10 | N/A | 24 |
| | | | | | |
| Branch 1, 2 & 3 Operator | | | | | |
| Current Requirement | 8 | 12 | 2 | 2 | 24 |
| Proposed Requirement | 3 | 11 | 10 | N/A | 24 |
| | | | | | |

| | L & R | A & I | IPM | General | Total |
|--|-------|-------|-----|---------|-------|
| Branch 1 & 2 Field Representative | | | | | |
| Current Requirement | 8 | 8 | 2 | 2 | 20 |
| Proposed Requirement | 3 | 9 | 8 | N/A | 20 |
| | | | | | |
| Branch 1 & 2 Operator | | | | | |
| Current Requirement | 8 | 8 | 2 | 2 | 20 |
| Proposed Requirement | 3 | 9 | 8 | N/A | 20 |
| | | | | | |
| Branch 1 & 3 Field Representative | | | | | |
| Current Requirement | 8 | 8 | 2 | 2 | 20 |
| Proposed Requirement | 3 | 9 | 8 | N/A | 20 |
| | | | | | |
| Branch 1 & 3 Operator | | | | | |
| Current Requirement | 8 | 8 | 2 | 2 | 20 |
| Proposed Requirement | 3 | 9 | 8 | N/A | 20 |



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January 2017

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|--------|--------|---------|-----------------------------------|-----------------------------------|--------|----------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | 9 | 10 | 11 SPCB Meeting (San Diego) | 12 SPCB Meeting (San Diego) | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 | | | | |
| | | | | | | |

April 2017

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|--------|--------|---------|-----------------------------------|-----------------------------------|--------|----------|
| | | | | | | 1 |
| 2 | 3 | 4 | 5 SPCB Meeting (Sacramento) | 6 SPCB Meeting (Sacramento) | 7 | 8 |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 | | | | | | |

July 2017

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|--------|--------|---------|--|--|--------|----------|
| | | | | | | 1 |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 9 | 10 | 11 | 12 SPCB Meeting (Southern California) | 13 SPCB Meeting (Southern California) | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 | 31 | | | | | |

October 2017

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| 1 80 | 2 81 | 3 82 | 4 83 | 5 84 | 6 85 | 7 86 |
| 8 87 | 9 88 | 10 90 | 11 91 | 12 92 | 13 93 | 14 94 |
| 15 95 | 16 96 | 17 97 | 18 98 | 19 99 | 20 100 | 21 101 |
| 22 102 | 23 103 | 24 104 | 25 105 | 26 106 | 27 107 | 28 108 |
| 29 109 | 30 110 | 31 111 | | | | |
| | | | | | | |