

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:

**Sheraton Ontario Airport
Orchid Ballroom
429 N. Vineyard Avenue
Ontario, CA 91764
July 23, 2015
8:00 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, July 22, 2015**. 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 144 and 8520.1 and Penal Code (PC) Section 11105(b)(10), the Board is considering the addition of Section 1960 to Title 16, Division 19 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST

On July 1, 2004, B&P Code Section 144 became effective and the Board began requiring licensure applicants to submit their fingerprints for the purpose of conducting a criminal history record check. However, some individuals who were licensed prior to July 1, 2004 may have not submitted their fingerprints for the purpose of conducting a criminal history record check.

In order to fully implement the fingerprint requirement mandate outlined in B&P Code Section 144, the Board is proposing to add Title 16, Division 19, Section 1960 to the CCR to require all licensees who have not submitted their fingerprints for purposes of conducting a criminal history check be required to do so as a condition of license renewal.

Policy Statement Overview / Anticipated Benefits of the Proposed Regulation:

Pursuant to B&P Code Section 8520.1, the Board's highest priority is protection of the public when exercising its regulatory functions. The Board anticipates that the proposed regulatory action will benefit the public by providing the Board a means to ascertain the possible criminal history of its applicants for renewal of licensure.

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. The Board is the only state agency authorized to require applicants for a Structural Pest Control license to submit fingerprints for the purpose of conducting a criminal history record check; therefore, the proposed regulation will not conflict with any existing regulation related to that topic.

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 made this determination based on the regulatory effect of the proposed regulation applying only to individual licensees, and more specifically, only individual licensees who have never submitted fingerprints for the purpose of conducting a criminal history record check.

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 cost impact that a representative private person would necessarily incur to be in reasonable compliance with the proposed regulation and that are known to the Board are:

Structural Pest Control Board Licensees Who Have Never Submitted a Set of Fingerprints For the Purpose of Conducting a Criminal History Record Check

As of February, 2015 the Board regulates 20,504 licensees. Of these, the Board estimates that 5,058 were licensed prior to July 1, 2004 and have therefore never submitted their fingerprints for the purpose of conducting a criminal history record check.

In order to submit a set of fingerprints for the purpose of conducting a criminal history record check, an individual must complete a Livescan, whereby their fingerprints are electronically submitted to the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI).

The cost associated with completing a Livescan is as follows - The DOJ and FBI charge a combined total of \$49, and the location that electronically transmits the fingerprints charges a "rolling fee" that generally ranges from \$20 to \$35. Therefore, for an individual affected by the proposed regulation, there will be a one-time cost of \$69 to \$84.

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 regulatory effect of the proposal will apply only to individual applicants and not to businesses.

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 regulatory effect of the proposal will apply only to individual applicants and not to businesses.

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 regulatory effect of the proposal will apply only to individual applicants and not to businesses.

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 Board's highest priority in exercising its regulatory authority is protection of the public. The proposed regulation will enable the Board to require its license renewal applicants to submit a set of fingerprints for the purpose of conducting a criminal history record check if they have never done so. The health and safety of California's residents will benefit from the Board being able to ascertain the possible criminal history of license renewal applicants.

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 regulatory effect of the proposal will apply only to individual applicants and not to businesses.

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 proposed regulation will not have an effect on small businesses because it will apply only to individuals who are applying for renewal of licensure who have never submitted a set of fingerprints for the purpose of conducting a criminal history record check.

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 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.

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>.