



BOARD MEETING

NOTICE and AGENDA

Thursday, March 27, 2014
9:00 A.M.

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

Contact Person: Susan Saylor
(916) 561-8700

A G E N D A

Thursday – 9:00 A.M.

- I. Roll Call / Establishment of a Quorum
- II. Flag Salute / Pledge of Allegiance
- III. Public Comments on Items Not on the Agenda
- IV. Approval of the Minutes from the January 23 & 24, 2014 Board Meeting
- V. Review of Comments and Responses from Interested Parties' Workshop on IPM's Role in Continuing Education (CE)
- VI. Presentation and Discussion by Dr. Andrew Sutherland, UC IPM Bay Area Advisor on Human Health and Environmental Considerations While Conducting Structural Pest Control and Suggested Path
- VII. Consideration of Amending Section 1950 of Title 16 of the California Code of Regulations – Increase IPM CE Hour Requirement
- VIII. Executive Officer's Report
Licensing and Enforcement Survey Results and Statistics,
Staffing Changes, WDO Statistics, Press Release, Computer Based
Testing (CBT) Update, Sunset Committee Update
- IX. Consideration and Possible Position on SB 1244 Sunset Bill
- X. Consideration and Possible Position on AB1685 Examination Fee Increase Bill
- XI. Consideration of Proposed Amendments to Sections 1936, 1936.1, and 1936.2 of Title 16 of the California Code of Regulations – to Revise Company Registration and License Applications

- XII. Consideration of Proposed Amendment of Section 1948 of Title 16 of the California Code of Regulations – Operator, Field Representative, and Applicator Examination Fee Increase
- XIII. Structural Pest Control Board Brochures Review and Discussion Regarding Cost of Publishing in Languages other than in English
- XIV. Presentation of Act Review Committee Recommended Legislative Changes to Business and Professions Code sections 8504, 8505, 8505.1, 8505.2, 8505.5, 8505.10, 8505.12, 8505.14, 8507.1, 8514, 8518, 8538, 8551.5, 8555, 8560, 8562, 8564, 8564.5, 8564.6, 8565, 8565.6, 8566, 8567, 8590, 8590.1, 8593.1, 8612, 8613, 8617, 8622, 8643, 8647, 8651, 8656, 8660, 8673, Deletion of 8505.6 and Addition of 8504.1 and 8672.1.
- XV. Consideration of Act Review Committee's Recommendation to Change Business and Professions Code sections 8504, 8505, 8505.1, 8505.2, 8505.5, 8505.10, 8505.12, 8505.14, 8507.1, 8514, 8518, 8538, 8551.5, 8555, 8560, 8562, 8564, 8564.5, 8564.6, 8565, 8565.6, 8566, 8567, 8590, 8590.1, 8593.1, 8612, 8613, 8617, 8622, 8643, 8647, 8651, 8656, 8660, 8673, Deletion of 8505.6 and Addition of 8504.1 and 8672.1
- XVI. Board Meeting Calendar
- XVII. Future Agenda Items
- XVIII. 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.
- XIX. **Return to Open Session**
- XX. Adjournment

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

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

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

MINUTES OF THE
BOARD MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
January 23 & 24, 2014

The meeting was held on January 23 & 24, 2014 in the Hearing Room located at 2005 Evergreen Street, Sacramento commencing at 1:01 P.M. on January 23, 2014 with the following members constituting a quorum.

David Tamayo, President
Curtis Good, Vice President
Cliff Utley
Marisa Quiroz
Naresh Duggal
Mike Duran

Board Staff Present:

Susan Saylor, Executive Officer
Robert Lucas, Consumer Services Manager
Ronni O'Flaherty, Administrative Analyst
David Skelton, Administrative Analyst

Departmental Staff Present:

Kyle Muteff, Legal Counsel
Kurt Heppler, Legal Counsel
Ryan Arnold, DCA Legislative Analyst

Deputy Attorney General Langston Edwards was also in attendance.

ROLL CALL/ESTABLISHMENT OF QUORUM

Ms. Saylor read roll call, quorum established.

FLAG SALUTE/PLEDGE OF ALLEGIANCE

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

1:17 P.M. Board Member Mike Duran arrived.

PETITION FOR MODIFICATION/TERMINATION OF PROBATION

Administrative Law Judge Linda A. Cabatic sat with the Board to hear the Petition for Modification/Termination of Probation for William Villarino, Field Representative License Number 44780. The petitioner was informed that he would be notified by mail of the Board's decision.

PETITION FOR REINSTATEMENT

Administrative Law Judge Linda A. Cabatic sat with the Board to hear the Petition for Reinstatement for Angel Suarez, Applicator License Number 49913. The petitioner was informed that he would be notified by mail of the Board's decision.

CLOSED SESSION

The Board entered closed session to deliberate on decisions in accordance with subdivision (c)(3) of section 11126 of the Government Code.

The open meeting resumed at 4:30 P.M. on January 23, 2014.

PRESENTATION BY DEPARTMENT OF CONSUMER AFFAIRS LEGAL AFFAIRS REGARDING THE ADJUDICATION PROCESS WITH AN EMPHASIS ON BOARD MEMBER RESPONSIBILITIES

Mr. Muteff gave a presentation regarding the disciplinary process and the responsibilities of the Board Members in its execution.

ADJOURNMENT

The meeting adjourned for the day at 5:20 P.M. January 23, 2014.

The meeting resumed at 9:01 A.M. January 24, 2014.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

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

PRESENTATION BY DEPARTMENT OF CONSUMER AFFAIRS SOLID TRAINING SERVICES REGARDING PLANNING SERVICES AVAILABLE TO THE BOARD.

Tom Roy and Elisa Chohan from Department of Consumer Affairs Strategic Planning Unit gave a presentation outlining the process for the development and implementation of a strategic plan for the Structural Pest Control Board.

Mr. Tamayo asked if the action items that are identified within the strategic plan are also subject to Board approval.

Mr. Roy stated that the action items can be included in the strategic plan that requires Board approval or it can be a separate internal document that does not require Board approval. That distinction is left to the Board's discretion.

Mr. Tamayo asked if there are performance measures related to the strategic plan that are reported on.

Mr. Roy stated that there are not formal performance measures but within the action plan there are milestones for each goal that allow for measurement of progress.

Mr. Utley asked if within a 5 year plan there could be goals set at the 1, and 3 year mark.

Ms. Chohan stated there could be 1 and 3 year goals written into a 5 years strategic plan.

Mr. Duran asked how similar the strategic plan would be to the one the Board currently has in place.

Ms. Chohan stated that the structure of the strategic plan would be similar to the one currently in place and she would work with Ms. Saylor on identifying new areas of emphasis or concern.

PRESENTATION BY BRANDON KITAGAWA OF REGIONAL ASTHMA MANAGEMENT AND PREVENTION ON INTEGRATED PEST MANAGEMENT BENEFITS RELATED TO ASTHMA CONDITIONS.

Mr. Kitagawa gave a presentation to the Board on the impact of pests and pest control on asthma rates and the role of Integrated Pest Management in lessening those impacts.

Mr. Duggal stated that Integrated Pest Management has a big role to play in many areas beyond asthma mitigation and in order to move forward many departments should be brought in to the effort to expand its use.

Mr. Good asked if there was any distinction contained in the data between licensed and unlicensed pest control work.

Mr. Kitagawa stated that there is no such distinction in the data due to the difficulty in identifying unlicensed work.

Mr. Tamayo stated that the Board plans to form a Committee to look at Integrated Pest Management as a whole once it receives feedback from staff from the Integrated Pest Management Workshop which was held January 23, 2014.

APPROVAL OF MINUTES FROM THE OCTOBER 16 & 17, 2013 BOARD MEETING

Ms. Saylor stated that there was a correction to the October 16 & 17, 2013 minutes, on page 9, changing the wording from "Ms. Quiroz moved" to "Ms. Quiroz seconded".

Mr. Utley moved and Mr. Duggal seconded to approve the October 16 & 17, 2013 Board Meeting Minutes with the correction indicated by Ms. Saylor. Passed unanimously.

EXECUTIVE OFFICER'S REPORT

Ms. Saylor reported on Licensing and Enforcement survey results and statistics, staffing changes, WDO statistics and examination passing rates.

Mr. Good asked if Ms. Saylor anticipated an increase in examination passing rates after the transition to computer based testing.

Ms. Saylor stated that in addition to the introduction of computer based testing we are conducting examination writing workshops with industry people with the goal of increasing examination passing rates.

Mr. Duggal asked if in the construction of new examination questions there was a focus on Integrated Pest Management questions that would coincide with any new Integrated Pest Management continuing education requirements.

Mr. Muteff stated that such discussion would be off agenda but the topic could be added as a future agenda item.

Mr. Utley asked if Ms. Saylor thought the low examination passing rates were attributable to the test being re-written after it was compromised last year.

Ms. Saylor stated that a number of factors have contributed to the low passing rate and reiterated the goal of achieving better passing rates through examination re-writes and computer based testing.

Ms. Saylor introduced Mr. Skelton as a new Administrative Analyst and announced that a job offer had been made to fill the vacancy left in the Licensing Unit by Mr. Skelton's departure.

Ms. Saylor stated that until July, 2014 staff is accepting new insurance and bond information without the requirement of a Change of Bond and/or Insurance Form or fee associated with the change to ease the burden of transition on industry.

Mr. Utley asked Ms. Saylor if a letter would be sent to industry concerning the form and fee requirement being waived.

Ms. Saylor stated that no letter to industry would be sent but that Naomi Sanchez in the Licensing Unit is disseminating the information through her contacts with bond and insurance companies.

Mr. Good congratulated PCOC on the implementation of computer based testing for Field Representatives and Operators and listed the numerous ways this development is beneficial to the pest control industry.

Ms. Saylor stated that the Board's informational brochures have been redesigned and will be available for distribution to the public and industry in the coming weeks.

Mr. Duggal suggested that these brochures should be provided to industry for distribution to consumers who are in need of pest control services.

Ms. Quiroz asked if the brochures are available in languages other than English.

Ms. Saylor stated that currently they are not but the ability to create them does exist.

Mr. Tamayo asked Ms. Saylor to report back to the Board on which languages are available.

CONSIDERATION OF ESTABLISHING A PRE-TREATMENT COMMITTEE TO REVIEW PRIOR RECOMMENDATIONS AND LEGISLATION

Mr. Good summarized the issues and goals surrounding the practice of pre-treatment and discussed the work done by the previous pre-treatment committee highlighting the prevalence of consumer fraud associated with the practice.

Mr. Tamayo asked Mr. Muteff for some guidance as the Board considers the re-establishment of a pre-treatment committee.

Mr. Muteff stated that the focus of the previous pre-treatment committee's work was prevention of consumer fraud and that their work set a good foundation for a re-established pre-treatment committee to build on.

Mr. Tamayo asked if there were comments from industry or the public on the establishment of a pre-treatment committee.

Vernard Lewis, UC Berkeley stated that the issue of pre-treatment is being dealt with at the federal level as well and perhaps any action taken by the Board could dovetail with that.

Harvey Logan, Western Exterminator Company stated that the industry badly needs action taken on the issue of pre-treatment and urged the Board to create a pre-treatment committee.

Mr. Tamayo in his capacity as Board President indicated that he would form a pre-treatment committee and stated that staff will be notified of the members who are chosen.

BOARD MEETING CALENDER

The next two meetings were previously scheduled for March 26 and 27, 2014 in Sacramento and July 9 and 10, 2014 in San Diego.

The next meeting was scheduled for October 15, 16, and 17, 2014 in Sacramento with the intent that one day would be for strategic planning.

The following meeting was scheduled for January 14 and 15, 2015 in San Diego.

FUTURE AGENDA ITEMS

Mr. Utley stated that a review and discussion of computer based testing should occur at the next meeting and that Ms. Saylor could determine the scope of the discussion.

Mr. Good stated that a discussion on the progress of the pre-treatment committee could occur at the next meeting.

Mr. Duggal stated that a presentation on urban pest control and the health and environmental impacts could occur at next meeting and he would take the lead in finding speakers.

Mr. Tamayo stated that he would like to add an agenda item for the next meeting for a broad discussion of the results from the IPM workshop as well as a separate agenda item with a focus on what actions the Board can take in order to move forward with IPM.

Mr. Good asked if PCOC would be available at the next Board Meeting to answer questions about training methods used in the practice of IPM.

Joshua Adams, PCOC stated that PCOC would be available to answer those questions.

Mr. Muteff stated that future agenda items may also be requested through staff and those requests would be presented to the Board President to decide if the matter is placed on the agenda.

ADJOURNMENT

Mr. Duran moved and Ms. Quiroz seconded to adjourn the meeting. Passed unanimously.

The meeting adjourned at 10:45 A.M.

Board President

Susan Saylor, Registrar

Date

MINUTES OF THE
INTERESTED PARTIES' WORKSHOP
ON IPM'S ROLE IN CONTINUING EDUCATION

Board Staff Present:

Susan Saylor, Executive Officer
Ronni O'Flaherty, Administrative Analyst
David Skelton, Administrative Analyst

Departmental Staff Present:

Kyle Muteff, Legal Counsel
Kurt Heppler, Legal Counsel

The workshop was held on Thursday, January 23, 2014 at the Structural Pest Control Board, 2005 Evergreen Street, Sacramento, California.

Ms. Saylor began the meeting at 10:01 A.M by outlining the format and parameters of the workshop. Ms. Saylor stated that the focus of the workshop is Title 16, Division 19, Article 3.5, Sections 1950 and 1984 and ways in which they may be improved.

Mr. Heppler stated that questions arose at the October 16 and 17, 2013 Board Meeting as to the approval of and criteria required for IPM continuing education courses. The workshop is designed to address those questions and utilize the collective knowledge and expertise of the workshop attendees to present to the Board for their consideration.

Al St Cyr, AIB International, stated that the approval process for IPM CE courses can be too rigid. Course approval criteria should allow for variation according to the specific circumstances in different areas of pest control, i.e. food safety.

Sylvia Kenmuir, Target Specialty Products, stated that there is a need for courses to be approved as both Technical and IPM so licensees can use them toward whichever CE requirement is needed.

Curtis Good, Newport Exterminating, stated that water quality should be more an area of emphasis in CE courses and the general CE requirement should be re-focused as an IPM requirement with manufacturers and suppliers providing training.

Brandon Kitagawa, Regional Asthma Management and Prevention, stated that rather than IPM being a separate CE category it could be integrated into all categories.

Jim Steed, Neighborly Pest, stated that current CE IPM requirements do not accurately reflect the prevalence of IPM in business practice. IPM CE requirements should be raised and IPM should be integrated into as many CE courses as possible rather than it being a separate category.

Dominique Sauvage, Clark Pest Control, stated that there needs to be more emphasis on IPM in the industry and the board should consider integrating IPM into more CE categories and increasing IPM hour requirements.

Josh Adams, PCOC, stated that it's difficult to disseminate IPM training to smaller companies and larger IPM CE requirements could be a good step to create more emphasis.

Darren Van Steenwyk, Clark Pest Control, stated that IPM is the way the industry has been and will continue to be moving and that IPM CE requirements should reflect this shift. IPM should be incorporated in all CE categories and training on water quality and off site movement of pesticides should be addressed.

Mr. Steed stated the industry has shifted toward IPM and CE courses and training are needed to educate technicians on how to educate consumers about the benefits of IPM.

Ms. Kenmuir stated that more education is needed on wind, rain, and other weather conditions that could potentially create conditions where pesticides would move outside of the target area.

Mr. Adams stated that rather than focusing exclusively on IPM CE requirements efforts could be made to introduce IPM in pre-licensing requirements.

Mr. Kitagawa stated that educating technicians to educate the consumer on the benefits of an IPM approach is important to the process.

Doug Crutchfield, stated that decision making in the practice of pest control is the key to IPM. If IPM is to be integrated into all CE categories then it should include training on the decision making process.

Naresh Duggal, Santa Clara County, stated that human health impacts should be addressed in IPM CE specifically mentioning acute and chronic toxicity levels in pesticide applications.

Sarah Ayers, Californians for Pesticide Reform, stated her coalition sees great consumer demand for IPM practices. Training pest control operators on how to educate the public as well as more public outreach by the Board to educate consumers are both needed. Pre-licensing requirements in addition to a greater IPM CE requirements as well as IPM being incorporated into all categories of CE are also needed.

Mr. Sauvage stated that IPM CE courses need to be approved for many aspects of IPM. Documentation, pest identification, and treatment are examples.

Mr. Van Steenwyk stated that IPM CE courses on the decision making process and documentation are needed. Health impacts of an infestation versus the health impacts of pest control treatment are an important aspect of pest control.

Mr. Steed stated that more education is needed that focuses on the human health impacts of different types of pests and different types of situations and the proper decision making process when faced with those variables.

Mr. Duggal stated that a guided manual which contains minimum IPM standards should be available online so every pest control company can operate uniformly.

Charlene Lillie, Pesticide Alternatives Santa Clara County, stated that IPM CE should be integrated into all CE categories and that the course creation process should not occur solely at the Universities. Water and soil quality issues should be addressed by IPM CE as well.

Ms. Ayers stated that a universal definition and set of standards for IPM that can be utilized by multiple training centers is needed. Her group currently sees variance in the industry in the definition and standards for IPM.

Mr. Steed stated that the Board should consider making CCR Section 1984 required in the curriculum for every IPM CE course which is approved.

Mr. Duggal stated the CE requirement should be increased from 16 hours every 3 years, to 80 hours every 3 years with an emphasis on IPM in all CE courses.

Ms. Kenmuir stated that CE courses should have the ability to be approved for multiple categories by half-hour, and quarter-hour increments.

Darrel Ennes, Terminix stated that currently, applicators are excluded from a significant portion of the IPM process because their license does not permit them to identify. The Board should consider encouraging progression of licensure so more licensees in the industry are included in IPM.

Mr. Adams stated that progression of licensure is perhaps more important to encourage in Branch 2 than it is in Branch 3.

Ms. Lilie stated that identifying the pest and circumstances surrounding its presence are of paramount importance to IPM.

Mr. Duggal stated that applicators too need a thorough understanding of IPM even if they are only performing work which has been prescribed. Encouraging progression of licensure is also needed.

Gayle Getty, stated applicators should be required to be thoroughly trained in IPM and some type of progression on licensure should also be encouraged.

Ms. Ayers stated that a significant increase in the number of required CE hours with a focus on IPM as it is practiced in real world situations is needed.

Kurt Heppler, DCA Legal Counsel summarized the Workshop as follows:

1. The alignment of IPM into all categories of CE.
2. An increase in the amount of IPM CE hours that are required across all classes and branches of licensure.
3. The criteria for the subjects and materials that constitute an IPM CE course should include:
 - a. Instruction for technicians on how to educate and inform consumers.
 - b. Air, water, and soil quality issues associated with pest control.
 - c. Weather factors associated with off target movement of product.
 - d. Human health risks associated with pesticide application, and the definition of IPM itself.
 - e. The technician's decision making process and documentation.
 - f. That the inputs used to create IPM CE/Training are diverse and not limited to the UC's and education community.
4. The ability to have CE courses approved in a manner which allows for half-hour and quarter-hour credits for different CE categories.

5. A greater role from the Board in public outreach to educate the public on IPM.

Items identified outside the scope of the Workshop were:

1. Pre-licensing education for entry level pest control applicants.
2. Progression of licensure for applicators. Allowing a finite period of time to retain applicators license.

Dear Board Members:

We are writing on behalf of Pesticide Alternatives Santa Clara County, a group that developed and worked to pass a comprehensive pesticide reduction ordinance for Santa Clara County in 2002 that was based on San Francisco's Integrated Pest Management (IPM) Ordinance. We gathered 5,000 signatures and 120 groups endorsed our efforts.

We are fully in support of increasing the IPM credits for continuing education for pest control operators from the limit of 2 units to the maximum 16 units and at all levels as we feel that Integrated Pest Management is the future of pest control. IPM can be used for almost all structural pest issues. It is safer, better and cheaper. Much of IPM deals with housecleaning and building maintenance. It is appropriate to have all of these issues discussed as valuable IPM methods. Studies have shown that IPM works better than pesticides for structural pest control in most cases as it deals with the root pest problems including shelter, food and water for pests.

Pesticides are toxic by definition, and are associated with a host of chronic and acute health problems including cancer, neuro-developmental problems in children, asthma and immune system dysfunction.

Using IPM is consistent with a healthy and safe environment. A healthy diverse soil provides multiple ecosystem functions. Organic farming and landscaping methods mitigate global climate change in that there are at least 28% higher carbon levels in soil in addition to higher root biomass. This is an overlooked aspect of carbon sequestration.

In addition soil humus levels determine water holding capacity and drainage rates. Organic methods increase drought tolerance and a conservative estimate shows organic farms use 26% less irrigation water. (1) A healthy soil builds and protects a robust topsoil and acts as a water filtration system. (2) A healthy soil also helps plants resist pests due to healthy balanced nutrient cycles. (3)

Considering the possibility of a prolonged drought in California combined with expected climate change it seems most reasonable to use IPM methods to rebuild the soil to maximize ecosystem functions and provide a safe habitat for humans and animals. It will as a side benefit lessen vegetation susceptibility to pest damage and lessen the need for pesticides.

We believe that the course credits should be broad based and easily formulated from a diverse group of experts in the IPM field who are practicing certified pest control operators who are using alternatives to pesticides. We do not believe that the control of the continuing education credits should be with the universities alone as this would stifle innovation and IPM accreditation. We think this would be a step backwards. In addition it is well known that major pesticide corporations have signed Memorandum of Understandings with Universities in California in order to direct research. This gives undue influence to corporations who profit from the sale and use of pesticides.

In the transition to IPM, standards are needed. A broad based and a diverse group of stakeholders involved in the process would assure that IPM will flourish. IPM is an exciting field and those who begin to work in it gain in enthusiasm. It is a cooperative and relationship building system that is based on problem solving.

Thank you for your consideration in this important matter.

Respectfully Submitted,
Cindy Russell, MD, Chair (PASCC) Pesticide Alternatives Santa Clara County

Dear Mr. Skelton:

Pesticide Alternatives Santa Clara County (PASCC) would like to add a few more comments to the ones we submitted to you January 29, 2014 regarding changes to continuing education requirements of California pest control operators.

We understand that there are 3 branches of licenses offered by the California Department of Consumer Affairs Structural Pest Control Board.

- 1) Branch 1, controlling household pests and wood-destroying organisms through fumigation
- 2) Branch 2, eliminating household pests without performing fumigation techniques
- 3) Branch 3, controlling wood-destroying pests/organisms through fumigation, insecticides and structural repairs/corrections

By definition integrated pest management is “a process you can use to solve pest problems while minimizing risks to people and the environment. IPM can be used to manage all kinds of pests anywhere—in urban, agricultural, and wildland or natural areas....Rather than simply eliminating the pests you see right now, using IPM means you'll look at environmental factors that affect the pest and its ability to thrive. Armed with this information, you can create conditions that are unfavorable for the pest.” (UC IPM) IPM is ecologically sound and does not harm the environment or humans that inhabit the environment.

IPM should not be the last resort to deal with pests but the foundation of any pest control program. As such IPM should not be taught separately from "traditional" pest control. IPM should be the framework for all training, not a separate specialty. It should represent best practices for all pest abatement activities. Branch 3 is far ahead of Branch 2 in that building modifications are required, if necessary, as part of the inspection and treatment/repair recommendations. Termite reports require this. We urge you to modify the training and licensing of pest control operators to use IPM as the preferred method of pest control with pesticides as a last resort. Building modifications and habit modifications should be part of all pest control training and licensing.

We very much appreciate your consideration in this important matter.

Cindy Russell, M.D.
Pesticide Alternatives of Santa Clara County

§1950. Continuing Education Requirements.

(a) Except as provided in section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action under section 8641 of the code.

(b) Each licensee is required to complete a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

(c) Operators licensed in one branch of pest control shall complete 16 continuing education hours during each three year renewal period. Operators licensed in two branches of pest control shall complete 20 continuing education hours during each three year renewal period. Operators licensed in three branches of pest control shall complete 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be completed for each branch of pest control licensed, a minimum of two hours in Integrated Pest Management, as defined in section 1984, must be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

(d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control shall have completed 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be completed for each branch of pest control licensed, a minimum of two hours in Integrated Pest Management must be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010 and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

(e) For the renewal period ending December 31, 2008, and each subsequent renewal period up to the renewal period ending June 29, 2010, a licensed applicator shall have

completed 12 hours of Board approved continuing education. Such continuing education shall consist of eight hours of continuing education covering pesticide application and use, and four hours covering the Structural Pest Control Act and its rules and regulations or structural pest related agencies' rules and regulations.

(f) For the renewal period ending June 30, 2010 and each subsequent renewal period, a licensed applicator shall have completed 12 hours of Board approved continuing education. Such continuing education shall consist of six hours of continuing education covering pesticide application and use, two hours covering Integrated Pest Management, and four hours covering the Structural Pest Control Act and its rules and regulations or structural pest related agencies' rules and regulations.

(g) Operators who hold a field representative's license in a branch of pest control in which they do not hold an operator's license must complete four of the continuing education hours required by section 1950(c) in a technical subject directly related to the branch or branches of pest control in which the field representative's license is held, in order to keep the field representative's license active.

(h) No course, including complete operator's courses developed pursuant to section 8565.5, may be taken more than once during a renewal period for continuing education hours.

NOTE: Authority cited: Section 8525, Business and Professions Code.

Reference: Sections 8560 and 8593, Business and Professions Code.

HISTORY

1. Amendment filed 6-13-91; operative 7-13-91 (Register 91, No. 41).
2. Amendment filed 5-12-94; operative 6-13-94 (Register 94, No. 19).
3. Amendment of subsections (c) and (d) filed 8-12-96; operative 9-11-96 (Register 96, No. 33).
4. Change without regulatory effect amending subsections (c) and (d) filed 4-6-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 14).
5. Change without regulatory effect amending subsections (c)-(e) filed 3-26-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 13).
6. New subsection (e) and subsection relettering filed 3-21-2006; operative 4-20-2006 (Register 2006, No. 12).
7. Amendment and renumbering filed 3-20-2009, effective 4-19-2009 (Register 2009, No. 12).

**LICENSING UNIT SURVEY RESULTS
December 20, 2012 to April 8, 2013**

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. 219 survey cards were mailed during this reporting period. 20 responses were received.

Question	Yes	No	N/A
1 Was staff courteous?	100%	0%	0%
2 Did staff understand your questions?	95%	0%	5%
3 Did staff clearly answer your questions?	95%	0%	5%
4 Did staff promptly return your telephone call?	75%	0%	25%
5 Did staff efficiently and promptly handle your transaction?	85%	0%	15%
6 How long did it take to complete its action on your file?* (Average)	~ 9 Days		

*There were 8 responses for question six. The answers ranged from 2 day to 30 days.

Company Registration – 2.5 days average (2 responses)

Field Representative License – 10 days average (1 response)

Operator License – 6.5 days average (2 responses)

Applicator License – No responses

Transfer of Employment – No responses

Change of Address – No responses

Bond/Insurance – No responses

Change of Qualifying Manager – No responses

Examination – 7 days (1 response)

Comments:

- I'm happy to be a field representative for California. Thanks.
- Ran into some issues on my behalf but licensing help me through it.
- Everything has been great. Keep up the great customer service!

- Thank you guys for your hard work.
- Since the correction has been made I still have not received my field representative card.
- Everyone was professional and courteous.
- Great service.
- Very happy, I believe it was Mr. Munoz who helped me, thanks.
- Proctor was fair.

COMPLAINT HANDLING SURVEY
March 27, 2014 – SPCB Meeting
January 10, 2014-Current

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

5 responses were received from consumers

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

*There were 2 survey responses from question number 8. The answers ranged from 1 days to 15 days.

6 responses were received from companies

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

COMPLAINT SURVEY RESPONSES
March 27, 2014 SPCB Meeting

Case Number	Respondent	Comments
11-572	Consumer	Exceptional service. Very grateful.
14-20	Consumer	I was very satisfied with the results you all gave me. I would not have gotten any results if it wasn't for you. Thank you.
14-103	Company	We are very glad to have Greg Adams as part of the SPCB team. Thank you.
14-144	Company	I was unaware there was a complaint. I thought it was a standard records check. I really appreciate the professionalism of your representative. He made it a good experience.
14-226	Company	No comment
14-276	Company	No comment
14-288	Consumer	No comment
14-302	Consumer	No comment
14-318	Consumer	No comment
14-321	Company	No comment
14-355	Company	No comment

Dec-2013						
	Scheduled	DNA	Appeared	Pass	Fail	Pass Rate
OPR1	1	0	1	0	1	0%
OPR2	29	2	27	13	14	48%
OPR3	15	1	14	6	8	43%
FR1	14	2	12	2	10	17%
FR2	247	49	198	36	162	18%
FR3	123	17	106	24	82	23%

Jan-2014						
	Scheduled	DNA	Appeared	Pass	Fail	Pass Rate
OPR1	5	1	4	2	2	50%
OPR2	34	2	32	18	14	56%
OPR3	17	0	17	5	12	29%
FR1	13	2	11	6	5	55%
FR2	340	49	291	60	231	21%
FR3	193	29	164	41	123	25%

Feb-2014						
	Scheduled	DNA	Appeared	Pass	Fail	Pass Rate
OPR1	5	1	4	0	4	0%
OPR2	33	0	33	17	16	52%
OPR3	28	4	24	10	14	42%
FR1	23	6	17	8	9	47%
FR2	468	81	387	59	328	15%
FR3	227	48	179	67	112	37%



WDO ACTIVITIES FILED

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	MO. AVG
July	110,740	110,615	99,163	116,972	110,432	123,958	111,980
August	106,326	113,033	104,141	124,622	110,534	116,087	112,457
September	110,470	110,919	87,158	117,013	103,223	129,161	106,390
October	125,545	120,744	113,586	120,171	120,645	117,714	119,734
November	98,739	107,830	90,626	110,723	102,655	103,787	102,393
December	88,689	88,499	81,140	91,644	88,935	101,132	90,007
January	89,271	82,806	77,774	84,492	94,775	92,959	83,586
February	86,740	88,560	83,071	95,226	98,208	88,870	90,113
March	105,981	120,443	109,522	108,429	114,785		111,832
April	115,412	124,141	117,107	118,528	121,802		119,398
May	113,224	116,654	120,792	111,594	115,207		115,494
June	102,520	133,637	118,929	113,080	116,313		117,042
FY Total	1,253,657	1,317,881	1,203,009	1,312,494	1,297,514	873,668	1,280,425
AVG PER MO.	104,471	109,823	100,251	109,375	108,126	109,209	





OFFICE OF PUBLIC AFFAIRS
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NEWS RELEASE

FOR IMMEDIATE RELEASE
March 6, 2014

Contact: Monica Vargas (916) 574-7744

EXAM SUBVERSION INVESTIGATION LEADS TO TWO ARRESTS

SACRAMENTO – Two people have been arrested on felony charges of helping people cheat on state licensing exams following an investigation by the Department of Consumer Affairs' Division of Investigation.

Larry Charles Holmes, Jr. and Persilla Marie Ulloa were arrested in January in southern California following an investigation into their business, ACEAPP Training. Investigators determined the two illegally obtained exam material for 12 different state-administered exams.

The investigation began at the request of the Structural Pest Control Board, whose staff noticed certain irregularities. It quickly expanded to other state licensing entities, including the Department of Pesticide Regulation, the Department of Public Health, the Department of Industrial Relations, the California Secretary of State and other departments.

"Exam subversion is a serious matter," said Susan Saylor, the Executive Officer of the Structural Pest Control Board, who originally requested the investigation. "Licensure examinations are developed to protect consumers by ensuring applicants meet an acceptable level of competency."

Both Holmes and Ulloa face 24 felony charges in Los Angeles County Superior Court. Both are free on \$240,000 bail. Holmes was arraigned on February 11th and Ulloa on February 14th.

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The Department of Consumer Affairs promotes and protects the interests of California Consumers. Consumers can file complaints against licensees by contacting the Department of Consumer Affairs at (800) 952-5210. Consumers can also file a complaint online at www.dca.ca.gov.





STRUCTURAL PEST BOARD
14 MAR -6 PM 2:40

9830 Via Leslie, Santee, CA 92071

PR-6634 ** 619.253.4157 ** FAX: 619.479.8228 ** cam@excimex.com

March 3, 2014

Mr. Curtis Good
Vice President
Structural Pest Control Board
2005 Evergreen Street-Suite 1500
Sacramento, CA 95815

RE: Branch 2 Operator's Examination

Dear Mr. Good:

Thank you for all that you do for our industry and thank you for your service to the Pest Board.

I recently took the SPCB Examination; Operator Branch 2, and successfully passed it.

While greatly relieved with the good news, I feel compelled to comment on both the content and the relevancy of the examination. I participated in series "A1" as I recall, and it was administered in San Bernardino, CA.

I fully appreciate the challenges that the licensing unit has faced over the past few months, as a result of the earlier test compromise. I am a retired naval officer, and consider myself first and foremost a pest management professional. Breaches of integrity are abhorrent to those in the industry who strive to maintain the highest levels of professional integrity and service.

With that said; the examination I participated in was fraught with inaccurate information, most specifically those questions relating to the Structural Pest Control Act (January 2014 revision). The examination was woefully out of date, in that many of the "answer selections" or "correct answers" made reference to bond and insurance information that is out of date. Several of the pest biology and pest ID questions were of questionable relevance. While it makes for interesting reading, and perhaps is the "curve buster" question, I could find no relevance to questions about the Ghost Ant (*Tapinoma melanocephalum*) with respect to structural pest control in California. Although the research is dated (1997) even entomologists at U.C. Riverside report that the Ghost Ant is listed under "occasional and emerging urban ant pests of California". Not to belabor the point, but questions relating to relevant and highly troublesome insects would be a greater learning and testing tool. Hopefully the "new" online tests will have been updated. Otherwise, the entire test could be challenged on accuracy alone.

Please accept this as constructive criticism. I hold members of our profession, the Pest Board and especially those who are long standing members of PCOC, in the highest regard.

Thank you again, and I look forward to the opportunity to meet you.

Sincerely,

meron R. Gray

RR2: 47356





Structural Pest Control Board
2005 Evergreen Street, Suite 1500, Sacramento, CA 95815
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MEMORANDUM

DATE	March 13, 2014
TO	Board Members
FROM	Susan Saylor Executive Officer / Registrar
SUBJECT	Agenda Item VIII – Executive Officer’s Report Sunset Update

Attached is a copy of the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business, Professions and Consumer Protection (Committees) background paper for the Structural Pest Control Board in regards to the Board’s Sunset Hearing scheduled for March 17, 2014.

This report indicates that the Committees are raising 18 issues for board staff to prepare responses to. The Committees have requested that staff and/or board members respond to eight of these issues at the upcoming Sunset Hearing scheduled for March 17. Four of the eight are numbers four and five which have been combined, then issues seven and nine. The other four issues are 10 and 11 that have been combined, along with 14 and 15 which have been combined.

I will provide an update at the board meeting regarding the March 17 Sunset Hearing.



BACKGROUND PAPER FOR THE STRUCTURAL PEST CONTROL BOARD

(Joint Oversight Hearing, March 17, 2014, Senate Committee on
Business, Professions and Economic Development and the Assembly
Committee on Business, Professions and Consumer Protection)

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE STRUCTURAL PEST CONTROL BOARD

BRIEF OVERVIEW OF THE STRUCTURAL PEST CONTROL BOARD

History and Function of the Structural Pest Control Board

In 1936, the Structural Pest Control Act (AB 2382, Chapter 823, Statutes of 1935) established the first Structural Pest Control Board (Board). Chapter 14 of the Business and Professions Code (BPC) was codified in 1941 and established the current version of the Board.

On October 23, 2009, the Board was transferred from the Department of Consumer Affairs (DCA) to the Department of Pesticide Regulation (DPR). Effective July 1, 2013, under the Governor's 2011-2012 Reorganization Plan (GRP) No. 2 and AB 1317, the Board returned to the DCA. AB 1317 (Frazier Chapter 352, Statutes of 2013) enacts the statutory changes necessary to reflect the changes in law made by the GRP No. 2, and would also make additional conforming name changes to properly reflect the assignment and reorganization of other functions of state government.

The Board issues three types of licenses for three different practice areas (branches) of pest control. The license types are Applicator, Field Representative, and Operator. The branches are fumigation, general pest, and termite (wood-destroying pests and organisms). Under the fumigation branch, the Board issues Field Representative Licenses and Operator Licenses. Under the general pest and termite branches, the Board issues all three licenses.

Each branch covers a distinct area of pest control:

- Branch 1.** Fumigation – Whole structure treatment with lethal gas.
- Branch 2.** General Pest – Ants, cockroaches, mice and rats.
- Branch 3.** Termite – Termites, wood boring beetles, dry rot, and fungus.

As of the FY 2012/2013 year, the licensee population included 5,051 Applicators, 10,549 Field Representatives, and 3,601 Operators. Each license has its own scope of practice, entry-level requirements, and education/examination requirements, with some overlap.

- **Applicator** – An entry-level license category issued in Branch 2 and 3 only. The Applicator is an individual licensed by the Board to apply a pesticide, or any other medium to eliminate, exterminate, control or prevent infestations or infections. Applicators cannot inject lethal gases used in fumigation.
- **Field Representative** – A full journey-level license. This individual secures work, makes identifications, makes inspections, submits bids, and contracts for work on behalf of a registered company.
- **Operator** – The highest level of license. Depending on the license category, the Operator must have at least two years' or as many as four years' qualifying experience. Only a licensed Operator may qualify a company for registration by assuming responsibility for the company and its employees as the company Qualifying Manager.

Each company and branch office must register with the Board (BPC § 8610). In the 2012/2013 year, there were 2,713 Principal Registrations and 437 Branch Office Registrations.

The current Board mission statement, as stated in its 2007 Strategic Plan, is:

The Structural Pest Control Board's highest priority is to protect and benefit the public by regulating the pest control industry.

Board Membership and Committees

The Board is comprised of seven members: three professional and four public members. The three professional members are licensed Operators appointed by the Governor. The two public members are appointed by the Governor; one is appointed by the Senate Committee on Rules; and one member is appointed by the Speaker of the Assembly. Board members receive a \$100-a-day per diem. Pursuant to BPC § 101.7, all DCA regulatory boards are required to meet at least three times each calendar year. BPC § 8523 requires the Board to meet annually during the month of October, and provides that special meetings may be called at any time. Over the last four calendar years, the Board has had at least one annual meeting (October) and four special meetings each year. All Board meetings and Committee meetings are subject to the Bagley-Keene Open Meetings Act. There are currently no vacancies on the Board. The following is a listing of the current Board members and their background:

Name and Short Bio	Appointment Date	Term Expiration Date	Appointing Authority
David Tamayo, President, Public Member Currently an Environmental Specialist with the Sacramento County Stormwater Program. Also serves as the County Integrated Pest Management coordinator, and is a member of the Sacramento-Yolo Mosquito and Vector Control Board of Trustees, the City of Sacramento Parks and Recreation Commission, DPR's Pest Management Advisory Committee, US EPA's Pesticide Program Dialogue Committee, and National Pest Management Association's GreenPro Advisory Committee. Prior to working for the County, owned a wholesale seafood business and was an electrician and whitewater raft guide. Graduated from UC Berkeley with a BA in zoology and is currently a graduate student in entomology at the University of Florida.	6/1/12	6/1/15	Speaker of the Assembly

Curtis Good, Vice President, Professional Member President of Newport Exterminating and owner since 1982. Member of the Urban Pest Management Center of California and the Pest Control Operators of California.	6/29/10	6/1/17	Governor
Clifford L. Utley, Professional Member President of Cliff's Pest Control, Inc., and has worked for the business since 1994. Previously a journeyman sheet metal worker and an apprentice sheet metal worker for the Santa Fe Railway from 1972 to 1992. Member of the San Bernardino, Highland, Redlands and Yucaipa Chambers of Commerce and serves on the Board of the California State University, San Bernardino Athletics Association.	6/1/12	6/1/15	Governor
Ronna Brand, Public Member Founder and owner of Brand Realty. State director for the California Association of Realtors since 2006. Was president of the Beverly Hills Greater Los Angeles Association of Realtors in 2007, and founder of Bicoastal Connections and owner from 1980 to 1984.	7/3/13	6/1/17	Governor
Marisa Quiroz, Public Member Manager of the San Diego Foundation's Environment Program. Has a Bachelor's Degree in Anthropology and Sociology from Mills College and a Master's in Nonprofit Leadership and Management from the University of San Diego.	8/15/12	6/1/16	Senate Rules Committee
Naresh Duggal, Public Member Manager for the Santa Clara County integrated pest management unit since 2002. Previously a quality assurance manager for the commercial division of Orkin Exterminating Inc. from 1999 to 2002. Served in multiple positions at Prism Professional Integrated Sanitation Management from 1994 to 1999, including technical support, quality assurance manager and staff entomologist.	7/3/13	6/1/17	Governor
Mike Duran, Professional Member Member and trustee for the Valley Sanitary District of Indio since 2003. Member and trustee of the Mosquito and Vector Control and Sanitary District in Coachella Valley from 2004 to 2008. Established the Pest Control Operators Palm Springs chapter and served as president from 2001 to 2004. Also served as a reserve police officer in the City of Indio from 1964 to 1967.	5/18/12	6/1/15	Governor

The Board has two committees designated by statute, the Disciplinary Review Committee (BPC § 8660) and the Research Advisory Panel (BPC § 8674). All other committees of the Board are formed as needed and its members are appointed by the Board president. The Board has not had any meetings that had to be canceled due to a lack of a quorum in the last four years.

Fiscal and Fund Analysis

The Board receives its budget from special funds and is independent of the State General Fund. The Board is responsible for three special funds: 1) Structural Pest Control Professions and Vocations Fund (Support Fund), 2) Education and Enforcement Fund, and 3) Research Fund.

BPC § 8674 specifies that the Board shall maintain "a reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program." There is no statute requiring the Board to maintain a minimum fund balance, however, a fund reserve of at least three months (maximum of six months) is considered fiscally prudent by the DCA. The Board's FY 2012-13 ending fund balance of approximately \$1.362 million is equivalent to 4.6 months' reserves.

Support Fund

The Support Fund is the primary fund for the Board, accounting for approximately 75 % of the Board's annual budget. The Support Fund is mostly funded by Wood-Destroying Pests and Organisms (WDO) filing fees, rather than licensing fees. The WDO activity filing fee is \$2.50, and is assessed each time a pest control company inspects a property or completes work on a property. The Board has averaged approximately 106,400 WDO filings per month over the last 5 budget years (FY 2008-2012), averaging 1,276,800 filings every 12 months.

The average total revenues received for filings since the passage of the Board's fee increase of \$2.50 (formerly \$1.50), effective July 1, 2010, is \$3.192 million (increased from \$1.915 million before the increase). The increase helped stabilize the support fund due to a decrease in actual and projected revenues for budget years 2009, 2010 and 2011 and also from a decrease in the Board's license population by approximately 20 %, previously over 25,000 in 2008 down to approximately 19,000 in 2013. The Board believes that the decrease in the license population, specifically Applicator licenses, is due to the housing crisis (which the Board defines as issues relating to housing prices, the banking industry, and hardships resulting from the recession).

Fund Condition						
(Dollars in Thousands)	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Beginning Balance	1631	744	703	1168	1362	1430
Revenues and Transfers	2501	3608	4060	3759	3773	3500
Total Revenue	\$4132	\$ 4352	4763	4927	5135	4930
Budget Authority	[4211]	[4215]	[4195]	[4265]	[4502]	[4397*]
Total Resources	4132	4352	4763	4927	5135	4930
Expenditures	3405	3649	3749	3565	3705	3705
Loans to General Fund	0	0	0	0	0	0
Accrued Interest, Loans to General Fund	0	0	0	0	0	0
Loans Repaid From General Fund	0	0	0	0	0	0
Fund Balance	\$727	\$703	\$1014	\$1362	\$1430	\$1225
Months in Reserve	2.6	2.3	3.2	4.6	4.6	4.0
* Projected Budget Authority						

The Board maintains a current contingent fund level of 4.6 months for economic uncertainties. The Board does not anticipate a budget deficit in the current year nor forecasts a budget deficit in FY 2013-14 or FY 2014-15. However, the Board states that it will be seeking legislation during the 2014 legislative session to increase examination fees to support computer based testing (CBT). The Board has approved pursuing a legislative proposal to increase to the current examination fee for each license type.

The Board also proposes to seek legislation in 2014 to establish a continuing appropriation to conduct CBT. In the interim, the Board, in a joint effort with the DCA, is planning a pilot CBT early in 2014 as part of its public policy analysis and review to substantiate operating expenses and the necessary equipment and staffing levels.

The Board believes that CBT will significantly reduce the risks of examination cheating. It also believes that it will provide a simplified approach to test validation, scheduling, and monitoring. There will be 17 CBT sites in California and 22 sites in other states. The Board currently has two examination sites, so the Board believes that CBT will improve testing availability and efficacy, particularly for out-of-state candidates who currently must travel to California to take an examination. The establishment of CBT is a part of the Board's 2007 Strategic Plan.

Education and Enforcement Fund

The Education and Enforcement Fund is supported by a licensee's purchase of a pesticide use stamp. Funds derived from the pesticide use report filing fee and all proceeds from county agricultural civil penalties collected are deposited into the Education and Enforcement Account. The Board manages the account for the following:

- For the purposes of training as provided in BPC § 8616;
- For reimbursement to the DPR for work performed as the agent of the Board pursuant to BPC §§ 8616, 8616.4, 8616.5, and 8617 and the Food and Agricultural Code § 15202;
- For reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

The cost of the pesticide use report filing fee \$4.00 is set in regulation while the statutory maximum is \$5.00 (BPC § 8674(r)). The majority of this fund supports the Memorandum of Understanding between the Board, the DPR and the County Agricultural Commissioners for pesticide use enforcement efforts.

The Education and Enforcement Fund is supported by pesticide use stamp fees and pesticide fines. Estimated revenues for stamp fees in FY 2013-14 and FY 2015-16 is \$240,000, respectively while pesticide fines are estimated at \$100,000.

Research Fund

According to the Board, research serves as vital component of the pest control profession, particularly as it relates to continuing education and professional field practices. The Research Fund supports the research efforts of the Research Advisory Panel which consists of one member from Board, two representatives from the structural pest control industry, one representative from the DPR, and one representative from the University of California.

The panel reviews research proposals and recommends to the Board which proposals to accept. The research projects are funded by the Research Fund and information regarding the status of research is published on the Board's website.

An additional cost of \$2.00 per every pesticide use stamp purchased (BPC § 8674) supports the Research Fund. Revenues for FY 2012-13 were \$135,064. FY 2013-14 and 2015-16 revenue estimates are \$120,000 respectively.

License Renewals

Field Representative, Applicator and Operator licenses must be renewed every 3 years. License fee changes occurring in the last 10 years are illustrated below.

- Operator Delinquent Renewal Fees decreased in 2006 from \$75 to \$60;
- Applicator examination/license fees increased in 2007 from \$0 to \$10 (and conforming reduction of the Operator examination fee from \$150 to \$120); and,
- Applicator Delinquent Renewal fee increased in 2007 from \$0 to \$5.

Fee Schedule and Revenue (Revenues listed in thousands)										
Fee	Fee	Fee Limit	FY 2009/10 Revenue	% of Total	FY 2010/11 Revenue	% of Total	FY 2011/12 Revenue	% of Total	FY 2012/13 Revenue	% of Total
WDO Filing	\$2.50	\$3.00	\$1,998	70%	\$3,057	75%	\$3,316	75%	\$3,155	74%
Pesticides use report filing	\$ 6	\$ 7	\$368	13%	\$368	9%	\$397	9%	\$403	10%
Operator:										
Examination	\$ 25	\$ 25	\$16	.5%	\$17	1%	\$17	1%	\$19	1%
License	\$120	\$150	\$24	.5%	\$21	1%	\$19	1%	\$19	1%
Renewal	\$120	\$120	\$131	4.5%	\$116	3%	\$13	1%	\$11	1%
Field Representative:										
Examination	\$ 10	\$ 15	\$40	1.5%	\$41	1%	\$48	1.5%	\$47	1.5%
License	\$ 30	\$ 45	\$38	.5%	\$39	1%	\$29	1%	\$26	1%
Renewal	\$ 30	\$ 45	\$81	3%	\$76	2%	\$13*	1%	\$7*	1%
Applicator:										
License	\$ 10	\$ 50	\$15	.5%	\$15	1%	\$17	1%	\$19	1%
Renewal	\$ 10	\$ 50	\$7	.5%	\$5	.5%	\$6	1%	\$6	1%
Company office registration	\$120	\$120	\$25	.5%	\$31	1%	\$29	1%	\$29	1%
Branch office registration	\$ 60	\$ 60	\$1	.5%	\$4	.5%	\$2	.5%	\$3	1%
CE provider	\$ 50	\$ 50	\$0.35	.25%	\$0.225	.25%	\$0.6	.25%	\$0.45	.25%
CE course approval	\$ 25	\$ 25	\$12	.5%	\$11	.5%	\$9	1%	\$12	1%

* Note: The Board indicates that approximately 85 % of Field Representative renewal fees for FY 2011-12 and FY 2012-13 were allocated to a special revenue account administered by the Department of Pesticide Regulation when the Board was subject to its jurisdiction until July 1, 2013. The Board states that these funds will be adjusted and appropriately reflected as a line item in the Board's Support Fund by close of FY 2013-14.

Expenditures by Program Component

The Board notes that in Fiscal Year 2009-10, expenditures decreased due to the Governor's Executive Order S-13-09, which required 3 day furloughs for a period of 18 months for state employees. In Fiscal Year 2012-13, expenditures decreased due to the Governor's Executive Order S-15-10, which required a 1 day Personal Leave Program, resulting in a one day reduction of state pay, for a period of 12 months for state employees.

Expenditures by Program Component								
(Dollars in Thousands)	FY 2009/10		FY 2010/11		FY 2011/12		FY 2012/13	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	692	443	800	750	840	524	794	490
Examination		151		163		133		128
Licensing	498	439	576	356	537	429	509	414
Administration *	443	255	512	284	604	293	572	306
DCA Pro Rata		393966		448068		389852		492046
TOTALS	\$1,633	\$ 1,682	\$1,889	\$2,001	\$1,981	\$1,768	\$1,875	\$1,830

* Administration includes costs for executive staff, board, administrative support, and fiscal services.

Staffing Levels

The Board's Executive Officer is appointed by the Board. The current Executive Officer, Susan Saylor, has served as executive officer since August 15, 2013, and previously served as Interim Executive Officer from October 2012. For FY 2013/14, the Board has a staff of 28, with 12 staff dedicated to enforcement, 7 in administration and 9 to licensing and examinations. There are also 3 vacancies.

The Board has had issues with recruitment, particularly with professional class positions. To deal with this issue, the Board is considering reclassifying certain positions as they become vacant to attempt to incentivize upward mobility and attract and retain the most qualified candidates. Although the Board admits workload issues, it believes that it has handled the issues successfully. The Board reports that it has utilized its existing staff and one part-time contract employee to complete the work.

Licensing

The Board issues, on average, some 2,329 licenses each year; this number includes all Applicator, Field Representative and Operator licenses. The Board processes approximately 4,275 renewals each year. Licenses are valid in three-year cycles.

It is the Board's policy to process approximately 99 % of all applications received within a 6-month time period with approximately 74 % approved. An incomplete application over 6 months old (including failure to pass the pest control examination) is automatically voided and a new application is required. Applicants whose applications have been approved and who have successfully passed the examination have up to one year to complete their applications (BPC § 8651); beyond one year, the application is voided. While the Board's target is 30 days, a majority of applications are processed within 14 days from submission. The Board points out that, while processing delays are rare, they are usually a result of factors beyond the Board's or applicant's control (i.e. response to fingerprinting submissions provided by other agencies). Applicants are encouraged to begin the fingerprint background check as the first step in the examination/licensure process to minimize any delays.

Licensee Population					
		FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
Applicator	Active	5,265	4,931	4,893	5,051
	Delinquent *				
Field Representative	Active	10,719	10,877	10,764	10,549
	Delinquent *				
Operator	Active	3,467	3,547	3,550	3,601
	Delinquent *				
Principal Registration	Active	2,513	2,575	2,629	2,713
	Delinquent *				
Branch Offices	Active	458	441	439	437
	Delinquent *				
* This data is not tracked by the Board					

Information Verification

The Board requires certificates of course completion with an application for an operator's license. An application for licensure as a field representative and operator must also be accompanied by a Certificate of Experience, completed and signed under penalty of perjury by the licensed operator managing the company under which the applicant gained the required training and experience. Any discrepancies noted by staff during the application review process, as it relates to possible authenticity of the signature or experience qualifications, are researched further by contacting qualifying managers to confirm accuracy of the information. License files may be reviewed to confirm periods of employment. If experience is obtained from out-of-state employment, verification of licensure from that state regulatory agency is obtained.

Fingerprinting

Since July 1, 2004, all license applicants must be fingerprinted for a criminal history background check through the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). If convictions are reported, Board staff makes the determination to issue or deny the license. All license applications are screened through the Board's enforcement records to determine if the applicant has had any prior disciplinary actions or outstanding enforcement actions that may be grounds for denial of the application.

The Board's fingerprint legislation became effective on July 1, 2004. Because this law could not be enforced retrospectively, only applicants filing applications for licensure on or after July 1, 2004 and current licensees upgrading their licenses (i.e. upgrading a field representative license to an operator license) were subject to the requirements of this legislation. The DCA sought authority in FY 2007-08 to allow affected boards and bureaus to require all licensees who have not been previously fingerprinted to submit fingerprints as part of the renewal of their licenses. However, the legislation did not pass. Therefore, the Board is considering promulgating regulations to require licensees to submit their fingerprints as a condition of licensure renewal.

Primary Source Documentation

The Board requires source documentation for all maintenance, issuance, or renewal of a license. Photo identification is mandatory for all examination applications, specifically at the examination sites. When Board investigators audit examination sites, they request and verify source documentation that the candidate is authorized to be at the examination site, usually valid photo identification and examination papers. Finally, the Board accepts source documents furnished by the applicant or licensee from current and previous employers and similar documents attesting to the experience, education and qualifications of the applicant or licensee.

Continuing Education

Every three years, the Board requires licensees to complete continuing education specific to the technical branches they are licensed in. Continuing education requirements vary depending on the type of license and number of categories held by the individual licensee. The number of required hours varies from 12 to 24 hours in a three-year renewal period. The Board conducts random audits every renewal period to check for compliance with license renewal requirements.

The Board currently has 118 CE approved providers. While the Board does not conduct scheduled reviews of continuing education providers, Board staff evaluates and approves each course offering, including the course syllabus and curriculum. Board investigators periodically audit CE course providers to ensure compliance with Board requirements.

The Board conducts annual CE audits on all classes of licensees. The Board conducts audits following renewals to insure licensees are accurately reporting their continuing education. Audits are conducted by randomly selecting a percentage from the renewal pool and requiring those selected to provide proof of their completed CE. Audit percentages vary from year-to-year based on staff workload. The consequences for failing a CE audit depend on the severity of the failure. The penalties include citation, fine, suspension, and license revocation.

Enforcement

From 2001 through 2004, the Board averaged 1,240 complaints annually. Since 2008, complaints fell to an all-time low of 377 in FY 2008-09 but have steadily increased from that point forward to 518 in FY 2012-13. Based on current intake, the Board estimates that complaints will increase to 600 by end of FY 2013-14. The Board believes that there are two issues affecting the intake of complaints. The first is the prevalence of "As-Is" sales, and the other is the underground pest control industry.

"As-Is" Sales

The Board believes that the rising trend of "As-Is" sales are nullifying the need for WDO inspections. The Board notes that buyers, sellers, or lenders are waiving pest control contractual contingencies so that there are fewer requirements in the sale or purchase of a home. The Board believes that these waivers preclude the Board from maintaining substantive jurisdiction, even in cases where there may have been a WDO inspection performed. The Board believes that sometimes the buyer will correct any conditions that would otherwise prevent the sale of property as this action serves as an incentive to stimulate the purchase of the property. The Board believes that a pest control company performing an inspection, excluding treatment and/or repairs, cannot be administratively disciplined for any of its

findings or recommendations if the buyer or seller agrees in advance that they will not use the pest control report or if they agree to hold the pest control company harmless as a condition of sale. The Board believes that its only course of action is to hold the pest control company responsible for the content and format of the report, but that it cannot administratively assist the consumer if a financial dispute occurs. It believes that the consumer's only recourse would be to pursue the dispute in civil court.

Underground Pest Control Industry

The underground pest control industry is composed of individuals or companies that fail to report income or taxes, such as unemployment tax. The underground economy includes licensed and unlicensed practitioners, an area of the industry that appears to be growing, especially in the past year.

The Board believes that it needs additional resources in order to appropriately combat these issues. In 2013, the Board began partnering with the Department of Industrial Relations, Division of Labor Standards Enforcement, and other agencies to battle the underground economy issues. Rather than relying on reactive investigations, the Board would like to initiate proactive investigations that would not rely solely on administrative or criminal sanctions, but would also, where appropriate, encourage and educate unlicensed practitioners on the virtues of securing licensure and likewise would incentivize currently unlicensed practitioners to satisfy any outstanding obligations.

The Board currently maintains a staff of 8 field investigators to investigate complaints and to enforce administrative or criminal actions. The Board plans to expand the scope of its field operations, to support the underground economy efforts and to address the provision of complaint intake and investigations, by seeking hiring authority for at least two additional field investigators in FY 2014-15 or FY 2015-16. The Board anticipates that it can recover underground economy outstanding liabilities greater than the amount to fund these positions, which the Board estimates will be at least two times the costs of the positions (approximately \$76,000, including salaries, wages and benefits per position times 2).

The Board also plans to intensify its office records check program with the addition of field investigators to promote these activities. An office record check is a field enforcement activity concerned with a licensee's record keeping. Licensees must keep all inspection reports, field notes, contracts, documents, and notices of work completed for a period of three years, in accordance with BPC § 8652. These records can sometimes reveal that a licensee may be operating without an insurance policy, surety bond or qualifying manager. In such cases, licensees may be treated as unlicensed practitioners, according to the Board.

Alternative Dispute Resolution

Because the legislative intent regarding alternative dispute resolution (ADR) (BPC §§ 465, 465.5) encourages agencies to utilize ADR, the Board plans to research private mediation, conciliation, and arbitration programs. It would use these programs to supplement to traditional dispute resolution and to attempt to maintain the ability to follow-up on complaints, even for "As-Is" sales or when a purchase agreement contains waiver clauses.

The Board states that implementation of an alternative dispute resolution program, such as arbitration, could better serve the consumer, particularly if the financial disputed amount is outside of the small

claims court's jurisdiction. Arbitration is not the answer to all investigative matters, but is a program that might be used to resolve specific financial disputes. Boards such as the Contractors State License Board, successfully utilize an arbitration program. An arbitration program, when properly administered, could save investigative costs, fleet costs, attorney general costs and Office of Administrative Hearings costs. These costs are variable and can contribute to difficult budgeting and expenditure decisions. The Board indicates that the utility of an arbitration program is the control of expenses by having a fixed sum of monies, under contract, with a private vendor who takes on the responsibility of the administration of the hearings and decisions (or awards) under the final review and supervision of the Board.

Performance Targets

The Board's performance target and expectations are based on the DCA's Consumer Protection Enforcement Initiative (CPEI). In addition, on a monthly basis the Board generates statistical reports to monitor the intake of complaints, the quality of mediation and investigations performed, and the life cycle or age of the complaints received. The Board tracks all cases settled, the number of cases receiving restitution and investigative cost recovery. Since FY 2009-10, the Board saved more than \$316,342.00 for consumers, recovered costs of \$86,218.00 and received restitution in the amount of \$17,617.00. The Board uses customer satisfaction surveys to monitor performance and to make any quality control improvements in the program, such as expanding its enforcement program by addressing issues in the underground economy.

Since its return to DCA in July of 2013, the Board has worked with DCA to establish performance measurements data to provide full transparency and to fully monitor its program and implement quality controls as needed. The Board anticipates that it will begin posting performance measurement data on the DCA website in the first quarter of 2014. Current data shows that the disposition of Attorney General cases still remains an issue. The Board indicates the performance timeframes and the adjudication of cases has been impacted by furloughs, budget challenges, and a decline in recruitment efforts statewide for virtually all state agencies. The Board will monitor case adjudication to ensure that cases continually move through the Attorney General's Office and through the Office of Administrative Hearings.

Enforcement Data Trends

After the 2008 historic low number of 377 complaints, complaints have steadily increased. The Board's Intake and Investigation units have recorded a significant decrease in the average age of open complaints, 191 days in FY 2011-12 to 116 days in FY 2012-13, a 39% decrease. Overall complaint age and average days to close show improvement each fiscal year. The Board estimates that these numbers are likely to remain fairly static in the current year.

The Board does not foresee any performance barriers in its enforcement program. However, it would like to increase enforcement in the underground economy. To help with underground economy enforcement, the Board has established a relationship with the Department of Industrial Relations. The Board further states its intention to establish relationships with other agencies (i.e. Franchise Tax Board) to improve proactive investigations and also to provide public outreach and consumer education. The Board will be seeking position authority in FY 2014-15 or FY 2015-16 for at least two field investigator positions to support its underground economy efforts. In order to implement ADR,

the Board will seek legislation and additional budgetary authority in FY 2015-16 once the program concept is approved by the Board in upcoming board or committee meetings.

Enforcement Statistics			
	FY 2010/11	FY 2011/12	FY 2012/13
Complaints	464	480	518
Average Time to Close	164	191	116
Investigations Assigned	494	459	530
Average days to close	164	191	116
Desk Investigations			
Closed	291	260	333
Average days to close	51	51	46
Non-Sworn Investigations			
Closed	195	255	179
Average days to close	326	331	245
Sworn Investigations			
Closed	8	4	0
Average days to close	352	336	0
Accusations Filed	53	34	37
Average Days Accusations	489	600	674
Average Days to Complete Discipline	504	597	635
AG Cases Initiated	65	48	49
Revocation	27	44	43
Voluntary Surrender	3	4	6
Suspension	3	0	0
Probation with Suspension	5	15	1
Probation	6	14	23
Probationary License Issued	9	11	2
Cease & Desist/Warning	80	84	68
New Probationers	20	40	26
Petitions to Revoke Probation	6	6	3
Probations Revoked	2	7	4
Citations Issued	111	169	133
Amount of Fines Assessed	\$223,341	\$221,858	\$132,063
Fines Reduced/Modified Amount	\$35,990	\$38,068	\$18,285
Fines Withdrawn Amount	\$19,758	\$41,517	\$625
Fines Amount Collected	\$95,638	\$127,116	\$103,127

Disciplinary Action

The statistics show that disciplinary actions have slightly decreased in recent years. The Board believes this is due to its use of citations. At times, the Board chooses to issue citations rather than impose the severe consequences associated with suspensions and revocations. The Board believes that citations improve compliance for lesser violations, which may be a benefit to consumers. The Board also notes that citations are cheaper than disciplinary actions, which allows them to focus on major violators.

Disciplinary actions vary over time as they are dynamic factors (numbers that cannot be controlled and are affected by various social, behavioral, and economic variables). The Board believes that decrease in enforcement actions is a possible indicator of strengths in other aspects of the Board's program, such as improved relevancy in examinations or continuing education subject matter, or perhaps more socially responsible licensees. The decline in the Board's licensing population may also be a contributing factor.

Case Prioritization

Board states its case prioritization policy is consistent with DCA's guidelines. The Board pursues cases by level of priority: 1) Urgent, 2) High, and 3) Routine. Urgent priority cases include fumigation deaths, arrests or convictions, or unlicensed activity (elder abuse or significant financial damages). High priority cases include probation violations, unlicensed activity (moderate financial damages) or fraud. Routine cases include advertising violations, improper inspections or unlicensed activity (minor or no financial damages).

Mandatory Reporting Requirements

The Business and Professions Code does not establish any mandatory reporting requirements for cities, counties, or cities and counties for pesticide use violations. However, county agricultural commissioners have ordinances or policies which vary from county to county regarding reporting pesticide use violations to the Board.

Liability insurance providers are required to notify the Board within 10 days of any change or cancellation of the liability policy of a registered company (BPC § 8690). There are no mandatory requirements for Courts to report licensee convictions to the Board.

Statute of Limitations

All complaints against licensees or registered companies must be filed with the Board within two years after the act or omission has occurred. The "act or omission" is typically determined to be the actual date of inspection, contract, or when treatment or repairs ceased. In the case of fraud, a complaint must be made within four years after the fraudulent act. The Board is required to file a disciplinary action to suspend or revoke a license and/or registration, within one year after the complaint has been filed with the Board, except that an accusation alleging a material misrepresentation on an application (BPC § 8637) must be filed within two years after the discovery by the Board. (BPC § 8621)

Cite and Fine

Rather than taking formal disciplinary action for small or moderate violations, the Board may issue a citation without a fine or a citation with a fine. They may also be used if a licensee has little or no history of past violations, and the violations must not involve fraud or misrepresentation, criminal acts, elder abuse, substantial financial damages, or other commonly recognized egregious violations if they are to be considered for the citation and fine process. The Board points out that a single case can result in multiple citations. It is common for a company to have multiple licensees inspecting a single property, so a single case could have a citation issued to each licensee, as well as to the company and the company's qualifying managers. Effective September 2013, the Board through regulations increased the maximum fine to \$5,000 (previously capped at \$2,500). (CCR § 1920)

Average Fine Pre Appeal			
2009-2010	2010-2011	2011-2012	2012-2013
\$1488	\$1983	\$1840	\$1008
Average Fine Post Appeal			
2009-2010	2010-2011	2011-2012	2012-2013
\$575	\$1,537	\$661	\$478

To date, the Board has not used Franchise Tax Board (FTB) intercepts to collect outstanding fines. However, the Board is considering the utility of using the FTB, the Board of Equalization, and private collection agencies for this purpose. The Board, when administratively feasible, will survey the costs of these programs to determine its best course of action and will attempt to implement a collection program as early as January 1, 2015.

Cost Recovery				
	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
Total Enforcement Expenditures	N/A	542558	391807	399636
Potential Cases for Recovery *	N/A	53	88	75
Cases Recovery Ordered	12	7	12	19
Amount of Cost Recovery Ordered	\$83,877.97	\$53,087.26	\$50,109.27	\$131,434.00
Amount Collected	\$48,171.40	\$58,721.21	\$25,774.20	\$31,421.25
* Cases in which disciplinary action has been taken based on violation of the license practice act.				

Cost Recovery and Restitution

The Board seeks cost recovery on all accusation cases filed with the AG. An administrative law judge, based on court testimony and/or findings of fact, may or may not order cost recovery in a proposed decision. If the cost recovery order is contrary to the amount sought by the Board, the Board has no discretion to set aside the ALJ's decision unless it elects to non-adopt the proposed decision in its entirety. Historically, the Board has not attempted to set aside an ALJ proposed decision and issue its own decision if the issue is only cost recovery. Decisions that are set aside involve other matters of law.

When considering settlement or stipulation terms, the Board may waive or reduce cost recovery upon a respondent's showing of good cause. In general, good cause may exist if the cost recovery order is likely to inhibit the respondent's ability to comply with the order of restitution to the consumer. In addition, the Board may waive cost recovery if it results in the immediate surrender of a license (termination of the business) in the interest of justice.

Over the last three years, the Board's average cost recovery order, whether issued by an administrative law judge or by Board stipulation, is approximately \$1,282. This figure represents approximately one-third of the Board's disciplinary cases. Since FY 2010-11, the Board has averaged 38 revocations (revocations that are stayed with conditions and unconditionally) and 29 new probationers each year.

The Board's ability to recover costs is conditioned on the respondent's desire to restore or reinstate his/her license. Approximately 20.3 percent of probationers have their licenses fully restored, and approximately 6 percent of unconditionally revoked licensees have had their licenses reinstated.

Restitution

The Board seeks restitution for consumers upon verification of damages stemming from structural pest control inspections, fumigations or other pest control activities. Restitution orders are based on rendered pest control services. They include monetary damages that may occur as a result of failures of a structural pest control company to properly repair or correct structural deficiencies to a building, omissions in an inspection report that results in additional costs, purchase agreements that may unlawfully impact the consumer, or improper mechanic's liens recorded against a consumer's property.

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

In November of 2013, the Board submitted its required Sunset Review Report to the Committees. In this report, the Board described actions it has taken since its prior review to address the recommendations of the Joint Committee on Boards, Commissions and Consumer Protection. According to the Board, the following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made.

- **Transfer of the Board from DCA to DPR.** Since the last review, ABX4, 20 (Strickland, Chapter 18, Statutes of 2009) transferred the Board to DPR. The Governor's 2011-2012 GRP No 2 and AB 1317 (Frazier, Chapter 352, Statutes of 2013) then returned the Board back to DCA.
- **Low passage rate for Board exams.** Since the last review, the Board has continued to monitor the pass/fail rates for its exams. In February 2013, the Board learned that its examination was compromised, and the investigation is ongoing. The Board continues to work with DCA's Office of Professional Examination to track of pass/fail rates and to compile the required data to update examination content and ensure examination security.
- **Use of academic research institutions for management of research projects.** The Board has established a successful request for proposal (RFP) process which complies with the State Contracting Manual and is approved through DCA and the Department of General Services.

CURRENT SUNSET REVIEW ISSUES FOR THE STRUCTURAL PEST CONTROL BOARD

The following are unresolved issues pertaining to the Board, or those which were not previously addressed and other areas of concern for the Committees to consider along with background information concerning the particular issue. There are also recommendations that staff have made regarding particular issues or problem areas which need to be addressed. The Board and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

ADMINISTRATIVE ISSUES

ISSUE #1: (STRATEGIC PLAN) Should the Board update its 2007 Strategic Plan?

Background: The Board's last Strategic Plan was approved in 2007. After being moved into the jurisdiction of the Department of Pesticide Regulation, the Board drafted a new Strategic Plan in 2011, but that plan was apparently never finalized.

While the numerous factors that come with transferring the Board back into DCA have no doubt been a factor in not having an updated Plan, it is important for the Board to carry out this essential task in a timely manner.

Within the DCA's administrative support functions, a training unit is available assist boards and bureaus with the Strategic Planning process. Board minutes from 2013 indicate that the Board and the DCA are both aware of the need to update and finalize a current Strategic Plan.

In light of the changes to Board's departmental alignment, and the current issues that it faces, the Board should make establishing a current strategic plan a clear priority in future months.

Staff Recommendation: *The Board should report to the Committees on the progress of updating its Strategic Plan.*

ISSUE #2: (IMPACT OF RESEARCH PROJECTS) What is the impact of research projects administered by the Board? Is the Board the appropriate entity to carry out such research projects?

Background: As stated above, the Board approves various research projects through requests for proposals (RFPs). These research projects are funded by the research fund, and the results are posted to the Board's website.

The Board indicates that research serves as a vital component of the pest control profession, particularly as it relates to continuing education and professional field practices. The Board administers a Research Fund (one of its three Special Funds) which supports the research efforts of the Board through its five-member Research Advisory Panel. (BPC § 8674 (t), California Code of Regulations (CCR) Title 16 § 1919).

The Research Fund is supported by an additional \$2.00 cost per every pesticide use stamp sold. (BPC § 8674(t)). Revenues for FY 2012-13 were \$135,064. FY 2013-14 and FY 2015-16 revenue estimates are \$120,000 respectively.

In its Sunset Review Report, the Board indicates that when particular issues occur in the profession requiring clarification, or when new issues arise, Board staff or the industry brings this information forward to Board members for consideration, or the members may also initiate research independently. The Board then identifies what elements of the research require specific attention. The research approval process is vetted through a RFP process or invitation for bids and is advertised on a national scale. After the research contract is awarded, information regarding the status of the research is published on the Board's website.

In its prior 2005 Sunset Review Report, the Joint Committee noted a setback in the Board's efforts to have an academic institution prepare its RFPs for grants from its Research Fund when UC Berkeley's Forest Products Laboratory botched the RFP process, and budgetary issues required UC Berkeley to close the Forest Products Laboratory. Ultimately, the Board indicates that it has established a successful RFP process that is subject to the State Contracting Manual requirements and approved through the DCA and the Department of General Services.

Staff Recommendation: *The Board should advise the Committees on the impact of the research results. For example, are the findings proscriptive or just informative for licensees? Is it appropriate for research to be a function of the Board or should this function be carried out by the pest control industry?*

ISSUE #3: (STAFF VACANCIES) What is the status of staff vacancies and Board efforts to recruit and reclassify positions in order to fill vacant staff positions?

Background: According to the Board's FY 2013/14 organizational chart, at the time the Sunset Review Report was filed, the Board had a staff of 28 with three vacant positions: two vacant Staff Services Manager positions, and one vacant Staff Services Analyst position. The Board states that it has difficulty in recruiting and retaining job candidates, specifically for professional class positions.

The Board indicates that it would like to reclassify certain positions as they become vacant in order to offer higher compensation and thereby to enhance recruitment and retention of employees. It would also like to turn some "specialist" class positions into "generalist" class positions, which would trim down the qualifications required for certain professional class positions.

Staff Recommendation: *The Board should update the Committees on the nature of the staff vacancies (e.g. how long, for what reason). What are the Board's current efforts to recruit and fill the vacant positions? The Board should provide details as to specific requirements that would be trimmed down or changed by reclassifying vacant positions.*

ISSUE #4: (ONLINE MEETING MATERIALS) Could the Board enhance public access and transparency by providing access to the materials for upcoming Board and Committee meeting and maintaining past materials on its Internet web site?

Background: California law places a priority on the transparency of public agencies in carrying out their regulatory duties. As the use of the Internet has progressed by both government agencies and consumers, publication of information on board web sites has become an important and essential tool in informing and advising the public and licensees about a board's business.

Committee staff notes that while the Board continues to post Board meeting agendas and minutes on the website, it does not post the materials or hand-outs which are used in preparation for Board meetings, and are ultimately referenced in Board meetings. It is unclear whether there is a valid reason why board meeting materials are not published in advance on the Board's Internet web site.

If Board meeting materials were posted, then consumers, the industry and any interested party could have full access to the same public information that the members of the Board use in its public meetings. This would better enable interaction by those stakeholders at Board meetings.

Posting Board meeting materials would also serve as a publicly accessible archive of past Board meetings and the materials used by the Board in carrying out its business. This serves the public interest by promoting transparency and access to the operations of the Board.

Staff Recommendation: *The Board should provide the Committees with the reasons why the Board does not post the materials online. The Board should additionally establish a plan to begin posting Board meeting materials on its Internet web site.*

ISSUE #5: (WEBCASTING BOARD MEETINGS) Would public access to state government operations be enhanced by webcasting Board meetings?

Background: Last year, the issue of sporadic webcasting was raised with the DCA. Webcasting, the delivery of live audio or video content through the Internet, is an effective tool in ensuring public access to publicly held meetings. However, the webcasting option is not chosen by some of the DCA boards, commissions and committees for their public meetings. While meetings are held at various locations throughout the state to allow for public participation and to ensure that public access is not hindered by geographical barriers, there is also significant benefit gained from providing consistent access to public meetings via the Internet.

Webcasting board meetings can also serve as a valuable publicly accessible archive, when the video or audio of the board meeting is posted online so that past meetings can be reviewed at any time. Webcasting and archiving board webcasts serve to enhance transparency and public access to the activities of the Board.

Webcasting board meetings was raised as a department-wide issue for DCA during last year's Sunset Review hearings. The DCA indicated that resources of both equipment and personnel are often a limiting factor in the Department's ability to provide webcast services for public meetings. DCA further stated that it was considering purchasing equipment that could be loaned to boards which would give greater access to webcasting.

It is unclear whether the Board has any plans at this time to begin webcasting its meetings. Webcasting board meetings can help provide access and transparency of the Board's operations to all stakeholders.

Staff Recommendation: *The Board should advise the Committees on any progress it has made in working with the DCA to webcast its meetings. The Board should further establish a plan to begin webcasting Board meetings, and archiving the webcasts on its Internet web site.*

BUDGET ISSUES

ISSUE #6: (INCREASING EXAMINATION FEES) What is the current status of the Board's proposal to implement CBT and to increase its examination fees?

Background: In its Sunset Review Report, the Board states the intention to seek legislation to increase examination fees so that it can begin to implement Computer Based Testing (CBT).

The Board does not anticipate a budget deficit in the current year nor forecasts a budget deficit in fiscal years 2013-14 or 2014-15. However, the Board has indicated that it will be seeking legislation during the current Session to increase examination fees to support CBT. A proposal would increase the maximum fees that could be charged for the examinations, however, the actual fees for the examinations would be based on the actual costs to administer the examinations. According to the Board, the current cost to administer each examination is \$37.50 under the DCA contract with the outside CBT vendor. If legislation to increase fees is approved, the Board would finalize a cost analysis and subsequently promulgate regulations possibly through a legislative BCP to support the Board's fully loaded costs to administer the examination program.

The Board states that prior to the full implementation of CBT, the Board, in a joint effort with the DCA, is planning a pilot CBT offering in the early part of 2014 as part of its public policy analysis and review to substantiate operating expenses and equipment and personnel years. This will help the Board to understand the necessary levels at which the fees should be set, and further provide the justification for any BCPs related to the full implementation of CBT. The Board also indicates that it will continue to assess its fund condition to ensure that it does not operate in a deficiency during the CBT Pilot.

The Board states that CBT is a cutting-edge technology that is anticipated to significantly reduce the risks of examination subversion (cheating) while also enabling a more seamless and simplified approach to test validation, scheduling and monitoring for Board staff and examinees. There will be 17 CBT sites in the state of California and 22 sites in other states. The Board currently only has two examination sites and so CBT will be a major improvement in testing availability and efficacy, particularly for out-of-state candidates who will save on costs associated with airfare and other travel to California to take an examination. The establishment of CBT is an element of the Board's 2007 Strategic Plan.

Committee staff notes the recent introduction of AB 1685 (Williams) which would raise the maximum fees that the Board could charge for examinations as follows:

- Operator examination fee: increase from \$25 to \$100
- Field representative examination fee: increase from \$15 to \$75
- Applicator examination fee: increase from \$15 to \$60

At this point, the full impact of the proposed fee increases on licensing applicants is unknown.

Staff Recommendation: *The Board should advise the Committees on the current status of the CBT pilot. The Committees should also appropriately consider any legislative proposals and their impact*

upon applicants, the pest control industry, and Board revenues. When does the Board anticipate that it will fully implement CBT?

ISSUE #7: (ALLOCATION OF LICENSE FEES TO A SPECIAL REVENUE ACCOUNT)
What are the reasons and authority for the allocation of field representative license renewal fees to a special revenue account in the Department of Pesticide Regulation?

Background: In its Sunset Review Report, the Board notes that 85 % of the Field Representative renewal fees for FY 2011-12 and FY 2012-13 were allocated to a special revenue account administered by the Department of Pesticide Regulation when the Board was under its jurisdiction until July 1, 2013. It is unknown what the nature and authority is for this special revenue account. The Report further notes that the funds will be adjusted and appropriately reflected as a line item in the Board's Support Fund by the close of FY 2013-14.

It would be helpful for the Board to inform the Committees on the nature of the special revenue account, and what the account was used for and is the authority is for the account. What is the authority for allocating licensing revenue paid to the Board to a special revenue account under DPR? Since the Board also indicates that the funds will be returned to the Board's Support Fund during this fiscal year, the Board should also update the Committees on the current status of the return of these funds.

Staff Recommendation: *The Board should provide the Committees with more detail about this special revenue account. What is the purpose of the account? What is the authority for allocating licensing fees to an agency's special revenue account? Have all of the funds been returned to the Board? Has any interest been paid to the Board for those funds?*

LICENSING ISSUES

ISSUE #8: (Fingerprinting) Should the Board adopt regulations to require that all licensees who have not previously been fingerprinted to be fingerprinted for the purpose of conducting criminal history record checks as a condition of license renewal?

Background: The Board has not been able to fingerprint licensees with licenses from before the implementation of the fingerprinting program, it is has considered promulgating regulations requiring fingerprinting as a condition to renew a license.

Effective July 1, 2004, (SB 364, Figueroa, Chapter 789, Statutes of 2003) all license applicants must be fingerprinted for a criminal history background check through the Board's Criminal Offender Record Information program (CORI). Board staff reviews the criminal history record from the Department of Justice and the Federal Bureau of Investigation and makes the determination to issue or deny the license.

The Board states that since the enacted law only dealt with licensing applicants, the fingerprint requirement could not be enforced retrospectively. Only applicants filing applications for licensure on or after July 1, 2004, and current licensees upgrading their licenses (i.e. upgrading a field representative license to an operator license) are subject to the requirements of this legislation.

In 2008, the Los Angeles Times published a series of articles which found that licensees of other DCA boards who had prior criminal convictions and were still licensed by their respective licensing boards. DCA sought legislation (SB 389, Negrete McLeod, 2009) to provide authority for all boards and bureaus to require all licensees who have not been previously fingerprinted to submit fingerprints as part of the renewal of their licenses. However, SB 389 was ultimately not enacted. Since that time, other licensing boards and bureaus have successfully adopted regulations to require licensees not previously fingerprinted to be fingerprinted upon license renewal. Similarly, the Board is considering adopting regulations which would require all licensees who were not subject to the prior legislation, to submit their fingerprints as a condition of licensure renewal.

In the interest of consumer protection, the Board should move forward with regulations to require the fingerprinting of all licensees who have not previously been fingerprinted.

Staff Recommendation: *The Board should advise the Committee on the status of this issue. The Board should additionally take steps to adopt regulations to require that all licensees, who have not previously been fingerprinted, to be fingerprinted for the purpose of conducting criminal history record checks as a condition of license renewal.*

ISSUE #9: (Compromise of Examinations) How has the Board responded to the 2013 discovery that its licensing examinations had been compromised?

Background: In February 2013, the Board learned that its examination was compromised, and as of November 1, 2013, the investigation was ongoing. The Board states that since that time it Board has been working with DCA's Office of Professional Examination Services to review the examination pass and fail rates on an ongoing basis to compile necessary data to update its examination content and to ensure examination security.

Board minutes since that time have noted that since the examinations were compromised, new field representatives were put in place in March 2013. However, the passing rate for the new examinations has been very low and the Board anticipated conducting examination question analyses each month until the passing rate improved.

The Board should report to the Committees on the nature of the examination compromise: which examinations were compromised, how they were compromised, and the effect has it had on the Board's examinations process. Has the Board has conducted a review of its examination security, and if so, what have been the findings? What is the status of the ongoing investigation and what are the findings of the investigation? How does the Board propose to prevent examination compromises in the future? What are the fiscal impacts to the Board of the compromised examination?

Staff Recommendation: *The Board should report to the Committees on the nature of the examination compromise: Which examinations were compromised? How were the examinations compromised? What effect has it had on the Board's ability to conduct examinations? What is the status of the ongoing investigation? What steps has the Board taken to prevent future examination compromises? What is the fiscal impact of the examination compromise to the Board?*

ENFORCEMENT ISSUES

ISSUE #10: ("AS-IS" SALES) Does the Board have adequate authority to take action against licensees for violations during "as-is" real estate sales?

Background: The Board believes that it is unable to take administrative action against a pest control company in an "As-Is" sale of a property, specifically where the buyer agrees to waive liability on the part of the pest control company.

In its Sunset Review Report, the Board indicates that the issue of "As-Is" sales has affected the Board's intake of complaints, and resulted in the dramatic downturn in complaints against licensees in the last few years. The Board believes that the rising trend of "As-Is" sales are nullifying the need for wood destroying organism (WDO) inspections. Specifically, the buyer, seller or lender is waiving pest control contractual contingencies so that there are fewer requirements in the sale or purchase of a home. The Board states that these waivers preclude the Board from maintaining substantive jurisdiction, even in cases where there may have been a WDO inspection performed.

The Board states that it is not uncommon in its experience for the buyer to correct any conditions that would otherwise prevent the sale of property as this action serves as an incentive to stimulate the purchase of the property from the seller, particularly in a declining market. In essence, a pest control company performing an inspection, excluding treatment and/or repairs, cannot be administratively disciplined for any of its findings or recommendations if the buyer/seller agrees in advance that they will not use the pest control report or if they agree to hold the pest control company harmless as a condition of sale. The Board states that its sole jurisdiction is to hold the pest control company responsible for the content and format of the report, but this does not administratively assist the consumer if a financial dispute occurs. The consumer's only recourse in such a case would be to pursue the dispute in civil court.

Committee staff questions whether the Board is, in fact, precluded from maintaining jurisdiction when pest control contractual contingencies are waived, even in cases where there may have been a WDO inspection performed. If there are violations by the licensee, what is there that would make the Board unable to take action? Is it a matter of whether the Board is precluded from taking action, or is it a matter of Board policy?

Committee staff points out that recent legislation has been enacted which would prohibit any licensee, regulated by any DCA board, from including in a settlement agreement of a civil dispute a provision which prohibits the filing of a complaint with a Board (AB 2570, Hill, Chapter 561, Statutes of 2012). Although these agreements in "As-is" sales are not specifically the same as the settlement of civil suits, there are many similarities.

The Board should address whether it has adequate authority to exercise jurisdiction over a licensee when there is an "As-is" sale of a property.

Staff Recommendation: *The Board should inform the Committees whether a consumer can contract away the ability of the Board to discipline a licensee. The Board should speak to whether it is precluded from maintaining substantive jurisdiction when pest control contractual contingencies are waived. If there are violations by the licensee, what would make the Board unable to take*

action? Is it a matter of whether the Board is precluded from taking action, or is it a matter of Board policy? Does the Board recommend any legislation to clarify the Board's ability to protect consumers in this area?

ISSUE #11: (UNDERGROUND ECONOMY) Can the Board adequately address the Underground Pest Control Industry?

Background: The Board has raised the issue of the underground pest control industry in its Sunset Review Report. Specifically the Board notes that individuals and companies that fail to report their work to avoid compliance with tax, licensing, and labor laws. The underground economy includes licensed and unlicensed practitioners, an area of the industry that appears to be growing, according to the Board, especially in the last year. The Board believes this rise is largely due to rising unemployment, a decline in savings and retirement, and the reduction of various income assistance programs (such as unemployment compensation).

The Board cites the California Employment Development Department, stating that:

Reports on the underground economy [a ten billion dollar industry] indicate it imposes significant burdens on revenue needed to fund critical state programs and businesses that comply with the law. When businesses operate in the underground economy, they gain an unfair, competitive advantage over businesses that comply with labor, licensing, and payroll tax laws. This causes unfair competition in the marketplace and forces law-abiding businesses to pay higher taxes and expenses.

The Board believes that in order to appropriately combat these issues, it must obtain the resources necessary to effect positive change. In 2013, the Board began partnering with the Department of Industrial Relations, Division of Labor Standards Enforcement, and other agencies to combat the underground economy. To further achieve successful results, the Board is endeavoring to initiate proactive investigations, as opposed to the traditional reactive investigations. Such investigations would not solely be based on administrative or criminal sanctions, but would alternatively, and where appropriate, encourage and educate unlicensed practitioners on the virtues of securing licensure, and likewise incentivize currently licensed persons to meet their tax, bonding, and licensing obligations.

The Board states that it currently has 8 field investigators ("Specialists") to pursue complaints and carry out enforcement functions. The Board plans to expand the scope of its field operations, to address underground economy efforts, by seeking position authority for at least 2 additional field investigators in FY 2014-15 or FY 2015-16.

The Board believes that though it's proposed underground economy enforcement efforts it can recover outstanding liabilities greater than the amount to fund these positions.

In addressing the underground pest control economy, the Board indicates that it has already established a relationship with the Department of Industrial Relations, and it anticipates establishing a working relationship as well with the Franchise Tax Board.

In addressing the range of underground economy issues, it may be appropriate for the Board to also seek the advice of the Contractors State License Board regarding its experience with battling the underground economy. The Board should also seek input from other regulators, such as the

Department of Pesticide Regulation and County Agricultural Commissioners on the underground economy.

Staff Recommendation: *The Board should update the Committees on its attempts to study the actions of other agencies in this area, such as the Contractors State Licensing Board, the Department of Pesticide Regulation, and the County Agricultural Commissioners. The Board should seek the input and advice from other agencies that address issues regarding the underground economy so that it may most effectively pursue this enforcement issue.*

ISSUE #12: (ALTERNATIVE DISPUTE RESOLUTION) Should the Board implement an alternative dispute resolution program or an arbitration program?

Background: The Board has raised the issue of using alternative dispute resolution (ADR) strategies for resolving issues between structural pest control companies and consumers. The Board specifically indicates that it would like to research and implement ADR programs, such as mediation, conciliation, and arbitration. The Board also plans to submit a budget change proposal in either budget year 2014-15 or 2015-16 in order to develop an arbitration program specifically under. The Board anticipates that the program would be a consumer arbitration program, under the authority of BPC § 465 et seq.

The Board is looking at innovative ways to improve complaint responsiveness while improving customer service and minimizing state costs. The Board states that it plans to research private mediation, conciliation, and arbitration programs (or "alternative dispute resolution") as an additional means to dispute resolution and to continue to maintain substantive jurisdiction on complaints.

The Board states that the implementation of an alternative dispute resolution program, such as arbitration, better serves the consumer, particularly if the financial disputed amount is outside of the small claims court's jurisdiction. Although arbitration is not the answer to all investigative matters, the Board believes that it is a program that can be used to resolve specific financial disputes. Other jurisdictions, including the Contractors State License Board, have implemented an arbitration program and have enjoyed success. An arbitration program, when properly administered, can save investigative costs, fleet costs, attorney general costs, and Office of Administrative Hearings costs, which are variable costs and can contribute to difficult budgeting and expenditure decisions. The utility of an arbitration program is the control of expenses by having a fixed sum of monies, under contract, with a private vendor who takes on the responsibility of the administration of the hearings and decisions (or awards) under the final review and supervision of the Board.

The Board may refer consumers to community based programs as well, such as court mediation or conciliation programs. The Board would maintain contact with the consumer to ensure that the court-administered program is the best alternative.

The Dispute Resolution Program Act (DRPA) (BPC § 465 et seq.) was enacted in 1986 to provide a simple mechanism for funding community based dispute resolution programs. Each county has the ability to opt into the program by resolution of the Board of Supervisors, and each county sets the amount up to the maximum that will be assessed against each filing.

The DRPA was designed to support the provision of conciliation and mediation services to a wide cross-section of the population. The programs funded by DRPA work to settle disputes that divide neighbors, families, co-workers, and communities including disputes that can escalate to the point of

violence or community-wide strife. Conciliation and mediation is a process that brings people together to solve their disputes collaboratively, focusing on common interests rather than on adversity. Conciliation and mediation in general and community-based conciliation and mediation in particular, are an especially successful way for community members to solve problems. It is typical for programs to find that over 80% of conciliations and mediations result in a resolution and participants commonly give high marks for satisfaction with the process.

Staff Recommendation: *The Board should update the Committees on the status of its planned implementation of an arbitration program, and whether other boards are using a similar approach through the DRPA. The Board should also advise the Committees on whether it plans to implement the other types of ADR as indicated in its Report.*

ISSUE #13: (DECREASE IN CITATIONS AND FINES) Why has there been a decrease in citations and fines in FY 2012/2013?

Background: In the Sunset Review Report, the Board states that statistics show that disciplinary actions have slightly decreased due to the Board exercising its citation authority (Page 77). However the enforcement statistics in the report show a decrease in the citations and fines statistics in FY 2012/13. The chart below shows 133 citations were issued in FY 2012/13, compared with 169 issued the prior year. This is a 22% decrease in the number of citations. For the same period, the amount of fines assessed decreased 40% from \$221,858 in FY 2011/12 to \$132,063 in FBY 2012/13. During this same period, complaints increased from 480 to 518 an 8% increase.

Citations and Fines			
	FY 2010/11	FY 2011/12	FY 2012/13
Citations Issued	111	169	133
Amount of Fines Assessed	\$223,341	\$221,858	\$132,063
Reduced/Modified Amount	\$35,990	\$38,068	\$18,285
Withdrawn Amount	\$19,758	\$41,517	\$625
Amount Collected	\$95,638	\$127,116	\$103,127

The Board uses citations and fines to impose reasonable sanctions against licensees without the need to pursue formal discipline to suspend or revoke a license, thus saving the Board substantial costs associated with formal actions for lesser violations. A citation and fine is also used if a licensee has little or no history of past violations. The Board states that violations must not involve fraud or misrepresentation, criminal acts, elder abuse, substantial financial damages or other commonly recognized egregious violations if they are to be considered for the citation and fine process.

The Board should explain the reasons for the decrease in citations and fines in the FY 2012/13. Are there operational issues that have hampered its efforts? Are there staffing issues that have impeded its enforcement processes? Has a change in Board policy led to the significant decrease in the number of citations and fines?

Staff Recommendation: *The Board should advise the Committees on the reasons for the decrease in the number and amount of citations and fines in FY 2012/13.*

ISSUE #14: (STATUTE OF LIMITATIONS) Are the current statute of limitations for filing complaints with the Board, and for the Board to file accusations against a licensee adequate? Should the timeframes be increased?

Background: The law establishes a statute of limitations for actions under the structural pest control law. Complaints against licensees must be filed with the Board within two years after the act or omission occurs. In the case of fraudulent acts, a complaint must be filed within four years. The Board is required to file any accusation against a licensee within one year after the complaint has been filed with the Board. However, the Board has two years after discovery by the Board to file an accusation against a licensee who has made a material misrepresentation of fact on a licensing application. (BPC § 8621)

The Board states that for purposes of the above timeframes the time of the “act or omission” is typically calculated from the actual date of inspection, contract or when treatment or repairs ceased.

It does not appear that the Board states in its Sunset Review Report whether or not it has lost any cases due to the expiration of the statutes of limitations. It would appear that the requirement for the Board to file an accusation against a licensee within one year of the time the complaint is filed with the Board could easily lead to cases being dismissed due to the accusation not being filed within one year. In order for an accusation, to be filed, several procedural steps must occur which can greatly extend timeframes and threaten meeting the one year requirement. The Board must: 1) receive the complaint, 2) investigate the complaint, including developing the administrative case, and 3) refer the case to the Attorney General’s (AG) Office. After this, the case is with the AG and largely out of the Board’s hands. The AG must draft and file the accusation. This can be a time-consuming process.

Committee staff notes the vastly different statute of limitations between the Board and the Contractors State License Board (CSLB). BPC § 7091 provides that a complaint must be made against a licensee within four years after the act or omission alleged as the ground for disciplinary action. The CSLB must file the disciplinary action against the licensee within four years after the act or omission occurred or within 18 months from the date the complaint was filed with the CSLB, whichever is later.

Has the Board lost been unable to pursue any cases or had any cases dismissed because of the expiration of the statute of limitations? If so, what has prevented the action from taking place within the required timeframes? Are the time limitations for filing a complaint with the Board adequate? Does the Board have any information on whether any consumers have been turned away from filing complaints because it was beyond the 2-year limitation? Are the timeframes for the Board filing an accusation against a licensee adequate? In the interest of consumer protection, should the timeframes be increased more in line with those stated above for contractors?

Staff Recommendation: *The Board should report to the Committees on whether it has been unable to pursue any cases or has had any cases dismissed because of the expiration of the statute of limitations? If so, what has prevented the complaint or accusation from taking place within the required timeframes? Are the time limitations for filing a complaint with the Board adequate? Does the Board have any information on whether any consumers have been turned away from filing a complaint because the two year limit for filing a complaint has expired? Are the timeframes for the Board filing an accusation against a licensee adequate? In the interest of consumer protection, should the timeframes be increased more in line with the statute of limitations for contractors?*

ISSUE #15: (RETENTION OF DOCUMENTS) Is the three year document retention period required of licensees adequate in light of the limitations for filing a complaint and taking disciplinary actions?

Background: Under BPC § 8652, a licensee must retain all documents related to work performed for a period of three years after the completion of the work. Failure to keep all inspection reports, field notes, contracts, documents, notices of work completed, and records, for the required three years is grounds for disciplinary action.

The Board states in its Sunset Review Report that it will be intensifying its office records check program if its proposal for additional of field investigators is approved. The office record check focuses on the licensee's record keeping, and the records can sometimes reveal that a licensee may be operating without an insurance policy, surety bond, or qualifying manager.

It appears that there is an inconsistency in the law which could significantly impact enforcement efforts of the Board – especially in the case of fraud by a licensee. As described above, BPC § 8621 establishes a two year statute of limitations for filing a complaint, and expands that timeframe to four years in the case of fraud. The Board then has one year from the date of the complaint to file an accusation against a licensee. Since there is only a three year record retention requirement, a licensee could destroy relevant records before a fraud complaint is ever made, and prior to the Board serving an accusation on the licensee. This appears to be a major inconsistency in the law.

Staff Recommendation: *The Board should advise the Committee on whether this three year record retention period should be extended beyond the statute of limitations timeframe so that licensees will be required to maintain documents for investigatory purposes.*

ISSUE #16: (EXEMPTION FROM LICENSURE) Should BPC § 8555 be amended as proposed by the Board to provisions which the Court held to be non-rational and unconstitutional?

Background: The structural pest control law exempts from licensure and regulation by the Board, those people and businesses engaged in the live capture and removal or exclusion of certain vertebrate pests, bees, or wasps from a structure without the use of pesticides (BPC § 8555 (g)). However, the law further excludes mice, rats, and pigeons from the definition of “vertebrate pests.” This provision was added by AB 568 (Valerie Brown, Chapter 718, Statutes of 1995).

In 2008, BPC § 8555 (g) was held unconstitutional by the 9th circuit (*Merrifield v. Lockyer*, 547 F.3d 978, 990 (9th Cir. 2008)). Alan Merrifield, was an unlicensed operator of a pest control business and trade association. His business engaged in non-pesticide animal damage prevention and bird control. In 1997, he was sent a warning letter from the Board stating that his business activities require a license, because he advertised and conducted rodent proofing. Merrifield never applied for a license and claimed none was necessary for his business activity because he did not use pesticides.

In order to continue working without a license, he filed a lawsuit against the Board and other state officials, alleging a violation of Equal Protection, Due process, and Privileges or Immunities Clauses of the Fourteenth Amendment.

The 9th Circuit held that the application of the licensing exemption under BPC § 8555(g) for individuals performing the live capture of vertebrae pests, bees, or wasps without the use of pesticides violated the equal protection clause of the 14th Amendment under the U.S. Constitution. The Court found that the inclusion of certain animals within the definition of vertebrae pests (bats, raccoons, skunks, and squirrels) but not others (mice, rats, or pigeons), lacked a rational basis.

In the Board's Sunset Review Report, it states that it is currently proposing to rectify the licensing issue by deleting the provisions which the court held to be non-rational and unconstitutional.

Staff Recommendation: *The Board should advise the Committee of: 1) The purpose for the initial exemption; 2) Whether there is in fact a reason for the distinction between certain vertebrae pests and others in the context of live capture without pesticide; 3) Which particular amendments does the Board propose to make to eliminate the provision found to be unconstitutional (e.g., just the definition of vertebrae pest?); 4) How the Board has enforced this provision since its enactment in 1995; and 5) If the Board proposes to maintain exemptions for live capture of certain pests without the use of pesticides.*

TECHNOLOGY ISSUES

ISSUE #17: (BREEZE IMPLEMENTATION) What is the status of BReEZe implementation by the Board?

Background: The BreEZe Project will provide DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing system. BreEZe will replace the existing outdated legacy systems and multiple "work around" systems with an integrated solution based on updated technology.

BreEZe will provide all DCA organizations with a solution for all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. In addition to meeting these core DCA business requirements, BreEZe will improve DCA's service to the public and connect all license types for an individual licensee. BreEZe will be web-enabled, allowing licensees to complete applications, renewals, and process payments through the Internet. The public will also be able to file complaints, access complaint status, and check licensee information. The BreEZe solution will be maintained at a three-tier State Data Center in alignment with current State IT policy.

BreEZe is an important opportunity to improve the Board's operations to include electronic payments and expedite processing. Staff from numerous DCA boards and bureaus have actively participated with the BreEZe Project. Due to increased costs in the BreEZe Project, SB 543 (Steinberg, Chapter 448, Statutes of 2011) was amended to authorize the Department of Finance (DOF) to augment the budgets of boards, bureaus and other entities that comprise DCA for expenditure of non-General Fund moneys to pay BreEZe project costs.

The Board is in phase 3 of the BreEZe project, which at the time of the Sunset Review Report was anticipated to be released by September 2014. This system will be designed to accommodate, where feasible, stand-alone databases used by the various boards and bureaus, including the Board's WDO database. The Board's executive officer participates in monthly and quarterly meetings concerning the progress of the BreEZe implementation. The Board states that the cost of the system has been encumbered in the Board's FY 2013/14 budget.

The Board further notes in its Sunset Review Report that the accounting under the DCA's existing data base system (known as CAS) is unable to cross-reference probationary cases and cost payments that have overlapping progress payments from one year to the next. The Board should advise the Committee on whether this issue will be resolved by BreEze. It would be helpful to update the Committee about the Boards' current work to implement the BreEZe project.

Staff Recommendation: *The Board should update the Committee about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? Will BreEZe fix the reporting issues regarding cross-referencing cases which overlapping progress payments as noted in the Sunset Review Report? What are the costs of implementing this system? Is the cost of BreEZe consistent with what the Board was told the project would cost?*

OTHER ISSUES

ISSUE #18: (TECHNICAL CLEANUP) Should the structural pest control law be amended to make technical, non-substantive, and conforming changes as proposed by the Board?

Background: Separate from its Sunset Review Report, the Board has submitted to Committee staff a legislative proposal to clean up the existing laws governing the practice of structural pest control. The Board notes that existing law should be updated to recognize current technology. In addition, certain provisions in the SPCL are no longer applicable and must be deleted or clarified. Other provisions require updating in order to meet the statute's purpose. Still other provisions of the law contain similar or duplicative language causing inconsistencies in the interpretation or application of those provisions.

The Board's proposal would makes technical or non-substantive changes to certain provisions of the structural pest control law, delete existing provisions from that law that are no longer applicable, and would delete or amend other provisions to support the legislative intent.

The Board should work with Committee staff to identify what update changes that should be made for inclusion in a legislative proposal. The Board should fully vet the proposed changes with all stakeholders so that there is no controversy surrounding the recommended amendments.

Staff Recommendation: *The Board should work with staff to identify what updating changes should be made to the structural pest control law. The Board should assure the Committees that all concerned individuals and interested parties have had an opportunity to express any concerns regarding the proposed changes, and that the concerns have been addressed, to the extent possible, by the Board.*

CONTINUED REGULATION OF THE STRUCTURAL PEST CONTROL PROFESSORIN BY THE CURENT STRUCTURAL PEST CONTROL BOARD

ISSUE #19: (CONTINUED REGULATION BY THE BOARD) Should the licensing and regulation of structural pest control be continued and should the profession continue to be regulated by the current Board membership?

Background: The health, safety and welfare of consumers are protected by the presence of a strong licensing and regulatory Board with oversight over the structural pest control industry.

This Board has experienced significant transitions over the last five years. Specifically moving from DCA to DPR in 2009 and then moving back to DCA in 2013 has greatly disrupted many of the Board's licensing, regulatory and disciplinary activities. However, it appears that the Board has successfully traversed the transitions and is making progress as a regulatory agency.

The Board should be continued with a 4-year extension of its sunset date so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

Staff Recommendation: *Recommend that the licensing and regulation of structural pest control continue to be regulated by the current Board members of the Structural Pest Control Board in order to protect the interests of the public and be reviewed once again in four years.*



California
LEGISLATIVE INFORMATION

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

CALIFORNIA LEGISLATURE— 2013-2014 REGULAR SESSION

SENATE BILL

No. 1244

**Introduced by Senator Lieu
(Principal coauthor: Assembly Member Bonilla)**

February 20, 2014

An act to amend Sections 8520 and 8528 of the Business and Professions Code, relating to the Structural Pest Control Board.

LEGISLATIVE COUNSEL'S DIGEST

SB 1244, as introduced, Lieu. Structural Pest Control Board.

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

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

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

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

SECTION 1. Section 8520 of the Business and Professions Code is amended to read:

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

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

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

(d) This section shall remain in effect only until January 1, ~~2015~~ 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2015~~ 2019, deletes or extends that date. ~~The Notwithstanding any other law, the repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473) by the appropriate policy committees of the Legislature.~~

SEC. 2. Section 8528 of the Business and Professions Code is amended to read:

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

The

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

This

(c) *This* section shall remain in effect only until January 1, ~~2015~~ 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2015~~ 2019, deletes or extends that date.



California
LEGISLATIVE INFORMATION

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

AMENDED IN ASSEMBLY MARCH 11, 2014

CALIFORNIA LEGISLATURE—2013-2014 REGULAR SESSION

ASSEMBLY BILL

No. 1685

Introduced by Assembly Member Williams

February 13, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would permit notice to be given by electronic mail in addition to the currently authorized methods.

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

This bill would instead authorize the board to charge a fee in an amount sufficient to cover the reasonable regulatory cost of administering the examination.

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

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

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

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

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

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

(1) The pest to be controlled.

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

(3) "State law requires that you be given the following information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be ~~minimized.~~ *minimized.*"

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

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

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

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

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

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

(1) First-class or electronic mail.

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

(3) Personal delivery.

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

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

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

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

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

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

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

(d) The board may charge a fee for any examination required by this section in an amount sufficient to cover the *reasonable regulatory* cost of administering the examination, ~~provided, however, that the fee shall not exceed fifteen dollars (\$15); examination.~~

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

~~SEC. 2.~~ **SEC. 3.** Section 8674 of the Business and Professions Code is amended to read:

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

- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than one hundred dollars (\$100).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).
- (g) A branch office registration fee of not more than sixty dollars (\$60).
- (h) A field representative's examination fee of not more than seventy-five dollars (\$75).
- (i) A field representative's license fee of not more than forty-five dollars (\$45).
- (j) A field representative's license renewal fee of not more than forty-five dollars (\$45).
- (k) An applicator's examination fee of not more than sixty dollars (\$60).
- (l) An applicator's license fee of not more than fifty dollars (\$50).
- (m) An applicator's license renewal fee of not more than fifty dollars (\$50).
- (n) An activity form fee, per property address, of not more than three dollars (\$3).
- (o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).
- (p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.
- (q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).
- (r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.
- (s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).
- (t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.
- (2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:
 - (A) The depository shall serve as custodian for the safekeeping of the funds.

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

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

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

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

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

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

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



California
LEGISLATIVE INFORMATION

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

CALIFORNIA LEGISLATURE— 2013-2014 REGULAR SESSION

ASSEMBLY BILL

No. 1685

Introduced by Assembly Member Williams

February 13, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would permit notice to be given by electronic mail in addition to the currently authorized methods.

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

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

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

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

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

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

- (1) The pest to be controlled.
- (2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.
- (3) "State law requires that you be given the following information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control

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

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

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

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

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

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

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

- (1) First-class or *electronic* mail.
- (2) Posting in a conspicuous place on the real property.
- (3) Personal delivery.

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

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

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

SEC. 2. Section 8674 of the Business and Professions Code is amended to read:

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

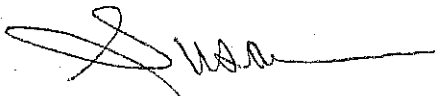
- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than ~~twenty-five~~ *one hundred* dollars ~~(\$25)~~ (\$100).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).
- (g) A branch office registration fee of not more than sixty dollars (\$60).
- (h) A field representative's examination fee of not more than ~~fifteen~~ *seventy-five* dollars ~~(\$15)~~ (\$75).
- (i) A field representative's license fee of not more than forty-five dollars (\$45).
- (j) A field representative's license renewal fee of not more than forty-five dollars (\$45).

- (k) An applicator's examination fee of not more than ~~fifteen~~ *sixty* dollars ~~(\$15)~~ (\$60).
- (l) An applicator's license fee of not more than fifty dollars (\$50).
- (m) An applicator's license renewal fee of not more than fifty dollars (\$50).
- (n) An activity form fee, per property address, of not more than three dollars (\$3).
- (o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).
- (p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.
- (q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).
- (r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.
- (s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).
- (t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.
- (2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:
- (A) The depository shall serve as custodian for the safekeeping of the funds.
- (B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.
- (C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.
- (D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.
- (E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.
- (3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.
- (4) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

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



MEMORANDUM

DATE	March 14, 2014
TO	Board Members
FROM	Susan Saylor Executive Officer 
SUBJECT	Agenda Item XI - Consideration of Proposed Amendments to Sections 1936, 1936.1, and 1936.2 of Title 16 of the California Code of Regulations – to Revise Company Registration and License Applications

Recently, the Department of Consumer Affairs (DCA) Legal Affairs Division issued a memorandum to all DCA boards and bureaus regarding the revision of criminal conviction questions being asked on licensing applications. Stemming from a recent court case and review of sections of law found in the Penal Code and the Health and Safety Code, it has been determined that certain arrests and convictions are exempt from disclosure.

In addition, according to Business and Professions Code 114.5, effective January 1, 2015, boards must ask applicants for licensure if they currently or have previously served in the military.

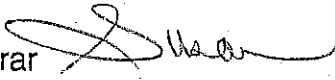
Lastly, there are other areas of the license applications that staff has recommended changes to that should be addressed while revisions to these applications are being made.

Staff is in the process of revising the Company Registration, Operator's License, Field Representative's License, and Applicator's License applications. The revised versions of these forms will be provided to Board members either prior to or at the board meeting.

Should the Board vote to approve these revised forms, staff will begin the process of rulemaking to have these forms changed in regulation.



MEMORANDUM

DATE	March 18, 2014
TO	Board Members
FROM	Susan Saylor Executive Officer / Registrar 
SUBJECT	Agenda Item XII – Consideration of Proposed Amendment of Section 1948 of Title 16 of the California Code of Regulations – Operator, Field Representative, and Applicator Examination Fee Increase

As you are aware, AB1685 is sponsored by the Pest Control Operators of California (PCOC) and was introduced by Assembly Member Williams in February. This bill will increase the Board's examination fee cap in Business and Professions Code section 8674 for operator, field representative and applicator. While this bill increases the statutory fee cap that can be charged for each category, it does not address the actual fee that will be charged.

California Code of Regulations (CCR) section 1948 is the regulation that identifies actual fees that can be charged and collected by the Board. Therefore, if AB 1685 is approved and becomes law on January 1, 2015, a regulation change must occur to change the actual fees in CCR section 1948.

Board staff recognizes that promulgating regulations is a lengthy process, therefore, with the approval of the Board Members, staff will start the regulation process with a public hearing at the Board's July or October board meeting to be effective in tandem with AB1685 with an effective date of January 1, 2015.

The additional cost of computer based testing (CBT) with the outside vendor is \$37.50 per candidate. Therefore, CCR section 1948 is being proposed to you with a standard increase of \$40 for operator, field representative and applicator examinations. Please see the attached CCR section.



Structural Pest Control Board
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MEMORANDUM

DATE	March 14, 2014
TO	Board Members
FROM	Susan Saylor Executive Officer / Registrar
SUBJECT	Agenda Item XIII – Structural Pest Control Board Brochures Review and Discussion Regarding Cost of Publishing in Languages other than English

At the January 2014 board meeting, I distributed a copy of some of the Board's revised brochures. During that meeting, I was asked about the possibility of printing the brochures in languages other than English.

While DCA's Office of Publishing, Design, and Editing assisted the Board in revising the brochures, the printing of brochures was done through the Department of General Services State Printing. In order to reduce the cost to \$1 per brochure, the quantity had to be increased to 4,000 copies. Therefore, it would not be cost effective to translate and print brochures in other languages. However, DCA can assist with translation and posting brochures on our web site in Spanish, the most commonly requested language other than English.

Staff will be working with DCA to accomplish this project.

ACT REVIEW COMMITTEE RECOMMENDATIONS 3-5-2014

8504. "Person" includes an individual, firm, partnership, corporation, ~~limited liability company~~, association or other organization or any combination thereof.

8504.1 "Pesticide" includes any of the following:

(a) Any spray adjuvant.

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

8505. "Structural pest control" and "pest control" as used in this chapter are synonymous. Except as provided in Section 8555 and elsewhere in this chapter, it is, with respect to household pests and wood destroying pests or organisms, or such other pests which may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, any of the following: identification of infestations or infections; the making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by such pests or organisms; the making of inspection reports, recommendations, estimates, and bids, whether oral or written, with respect to such infestations or infections; and the making of contracts, or the submitting of bids for, or the performance of any work including the making of structural repairs or replacements, or the use of ~~insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances~~, or mechanical devices for the purpose of eliminating, exterminating, controlling or preventing infestations or infections of such pests, or organisms.

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

8505.1. (a) Except as provided in subdivisions (b) and (c); for the purpose of this act, _____

"fumigation" shall be defined as the use within an enclosed space for the destruction of plant or animal life, a substance having a vapor pressure greater than 5 millimeters of mercury at 25 degrees centigrade when the substance is labeled for those purposes.

The following is a list of lethal fumigants:

(1) Methyl bromide.

~~(2) Sulfur dioxide.~~

~~(3) Propylene oxide.~~

(4 ~~2~~) Sulfuryl fluoride.

(5 ~~3~~) Aluminum phosphide.

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

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

The following is a warning agent:

Chloropicrin.

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

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

The following is a list of simple asphyxiants:

(1) Liquid nitrogen.

(2) Carbon dioxide.

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

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

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

~~If requested by the county agricultural commissioner, n~~Notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed.

The notice, which may be mailed or ~~given by telephone~~ provided by some form of electronic communication, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. No fee shall be assessed for processing the this notice, ~~which may be requested by the commissioner.~~

~~**8505.6.** During the process of fumigation the room or apartment being fumigated, together with all rooms and apartments, including rooms or apartments on the same floor and those above, below, and adjacent thereto, shall be vacated by the occupants thereof. During the process of such fumigation, all rooms, apartments, and hallways adjacent to the rooms, apartments or spaces undergoing fumigation, shall be kept well ventilated and warning signs as herein prescribed stating such fact of fumigation shall be kept posted at all entries to such rooms or apartments during the time of such fumigation and thereafter until all such premises are safely ventilated free of all fumes. All rooming or apartment houses designed for the use of four families or less shall be entirely vacated and closed against entry thereto and occupancy thereof while fumigation is being performed therein and until the same is safely ventilated free of all fumes.~~

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

address and telephone number of the registered company performing the fumigation. Warning signs placed under a tarpaulin shall not be required to state the time the fumigant was injected.

8505.12. A registered company performing fumigation shall use an adequate warning agent with all fumigants which lack such properties. There may be circumstances in which the use of chloropicrin is not possible due to its unknown effects on sensitive items, such as but not limited to artifacts in museums or in police evidence storage. In these circumstances, waiving the use of chloropicrin must be approved by the state regulatory authority and documented in advance and must include alternative safety precautions which address initial clearance of the site to be fumigated, potential movement of the fumigant to unattended areas, and continued site security. When conditions involving abnormal hazards exist, the licensee exercising direct and personal supervision shall take such safety precautions in addition to those prescribed by this chapter as are reasonably necessary to protect the public health and safety.

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

8507.1. (a) "Structural pest control applicator" is any individual who is licensed by the board to apply a pesticides, ~~rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests or organisms included~~ in Branch 2 or Branch 3 on behalf of a registered company.

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

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

8514. No ~~Branch 2 or 3~~ registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until the registered company has completed an inspection, has been made.

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

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

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

A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer must be informed in

advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

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

Subcontracting of work, as permitted herein, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, an act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for an act or omission in the performance of the work that the consumer directly contracts with another registered company, person or entity to perform, as permitted by this section.

All home-solicitation contracts must comply with Division 3, Title 5, Chapter 2, of the Civil Code.

8518. 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 working 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.

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 working business days after completed work.

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

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

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.

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

(1) The pest to be controlled.

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

(3) "State law requires that you be given the following information: CAUTION--PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized."

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

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

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

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

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

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

(1) First-class mail.

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

(3) Personal delivery.

(4) By electronic means

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

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

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

8551.5. ~~Except as provided by this chapter, No unlicensed individual in the employ of a registered company shall apply any pesticides, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests, or organisms included in Branch 2 or Branch 3. However, an individual may, for 30 90 days from the date of employment, apply pesticides, rodenticides, or allied chemicals or substances for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 30 90 day time period may not be extended.~~

8555. This chapter does not apply to:

(a) Public utilities operating under the regulations of the Public Utilities Commission, except to work performed upon property of the utilities not subject to the jurisdiction of the Public Utilities Commission or work done by the utility for hire.

(b) Persons engaged only in agricultural pest control work under permit or license by the Department of Pesticide Regulation or a county agricultural commissioner.

(c) Pest control performed by persons upon property that they own, lease or rent, except that the persons shall be subject to the limitations imposed by Article 3 of this chapter.

(d) Governmental agencies, state, federal, city, or county officials, and their employees while officially engaged.

(e) Authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony. A professional engaging in research, study, investigation, or preparation for expert opinion or testimony on his or her own behalf shall comply with the requirements of this chapter.

(f) Certified architects and registered civil engineers, acting solely within their professional capacity, except that they shall be subject to the limitations imposed by Article 3 of this chapter.

(g) Persons engaged in the live capture and removal or exclusion of ~~vertebrate pests, bees, or wasps~~ from a structure without the use of pesticides, provided those persons maintain insurance coverage as described in Section 8692. ~~"Vertebrate pests" include, but are not limited to, bats, raccoons, skunks, and squirrels, but do not include mice, rats, or pigeons.~~ This section does not exempt a person from the provisions of Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

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

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

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

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

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

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

(c) Unless otherwise authorized by the board, all ~~written~~ examinations shall be ~~in ink in~~ books supplied by the board. All examinations ~~papers~~ shall be kept for a period of one year, upon the expiration of which these ~~papers~~ records may be destroyed on order of the board. Each applicant for license as an operator or a field representative shall be designated by a number instead of by name, and the identity thereof shall not be disclosed until the examinations ~~papers~~ are graded. No person shall be admitted to the examination room except members of the board, the examining personnel, and the applicants ~~for license~~.

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

(e) Licensees may be licensed in other branches upon complying with the requirements for qualification and by examination in those other branches. No failure of the licensee to pass examination in the other branch or branches shall have any effect on existing licenses.

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

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

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

(a) The name of the applicant.

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

- Branch 1 2 years
- Branch 2 2 years
- Branch 3 4 years

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

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

(d) The fees prescribed by this chapter.

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

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

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

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

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

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

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

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

(e) The fees prescribed by this chapter.

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

The board shall not accept any application for a field representative's license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology,

pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of that training and experience.

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

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

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

(d) The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering the examination, ~~provided, however, that the fee shall not exceed fifteen dollars (\$15).~~

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

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

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

- (a) The name of the registered company by which the applicant is to be employed.
- (b) The fee prescribed by this chapter.

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

- (a) The English language, including reading, and writing, ~~and spelling.~~
- (b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control for which he or she is applying, require that knowledge.
- (c) The labor laws of the state.
- (d) The provisions of this chapter.

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

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

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

~~8565.6. An applicant for a Branch 2 license may elect to be certified in the handling, control, and techniques of removal of Africanized honey bees. The board shall develop a program to certify applicants in this specialty, or may approve a program for certification developed by the Pest Control Operators of California.~~

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

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

(b) The provisions of this chapter.

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

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

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

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

8590. Except as otherwise provided herein, all operator's, ~~and~~ field representative's, and applicator's licenses shall expire at 12 midnight on June 30 of every third year ~~and all applicator's licenses shall expire at 12 midnight three years from the date of issue.~~

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

Every operator, ~~and every field representative,~~ and applicator shall pay a fee for the renewal of his or her license.

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

In no case shall the penalty be waived.

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

~~8590.1. All applicator's licenses shall expire at 12 midnight three years from the date of issue. Every applicator shall pay a fee for the renewal of his or her license.~~

~~The board shall, on or before 60 days prior to the expiration of an applicator's license, mail to the applicator whose license will expire, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by the due date, a penalty will be added thereto. In no case shall the penalty be waived. Upon the receipt of the fee, the board shall cause the renewal certificate to be issued.~~

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

8612. The licenses of qualifying managers and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains. When a registered company opens a branch office it shall notify the registrar ~~in writing~~ on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

8613. A registered company which changes the location of its principal office or any branch office or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance shall notify the registrar ~~in writing on a form prescribed by the board~~ of such change within 30 days thereafter. A fee for filing such changes shall be charged in accordance with Section 8674.

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a licensee, registered company, or an unlicensed individual acting as a licensee, may levy an administrative fine up to one thousand dollars (\$1,000) or direct the licensee to attend and pass a board-approved course of instruction at a cost not to exceed the administrative fine, or both, for each violation of this chapter or Chapter 14.5 (commencing with Section 8698), or any regulations adopted pursuant to these chapters, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to pesticides. However, any violation determined by the board or the commissioner to be a serious violation as defined in Section 1922 of Title 16 of the California Code of Regulations shall be subject to a fine of not more than five thousand dollars (\$5,000) for each violation. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.

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

(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of receipt of the written notice of proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and a right to present evidence on his or her own behalf. If a hearing is not requested within the prescribed time, the commissioner may take the action proposed without a hearing.

(d) If the person upon whom the commissioner imposed a fine or suspension or required attendance at a board-approved course of instruction requested and appeared at a hearing before the commissioner, the person may appeal the commissioner's decision to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.

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

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

Where a citation containing a fine is issued to a licensee and it is not contested or the time to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of that license. A license shall not be renewed without payment of the renewal fee and fine. Where a citation containing a fine is issued to a registered company and it is not contested or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the registered company any pesticide use stamps until the assessed fine has been paid. Where a citation containing the requirement that a licensee attend and pass a board-approved course of instruction is not contested or the time to appeal the citation has expired and the licensee has not attended and passed the required board-approved course of instruction, the licensee's license shall not be renewed without proof of attendance and passage of the required board-approved course of instruction.

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

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

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

8622. When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, unless an extension is authorized by the board, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-

five dollars (\$125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

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

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

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

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

8656. In addition to the remedies provided for in Section 125.9 of the Business and Professions Code, when the licensee who is a registered company has failed to pay the fine assessed pursuant to a citation within 30 days of the date of assessment, unless the citation is being appealed, the board shall not sell to the registered company any pesticide use stamps until the assessed fine has been paid.

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

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

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

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

◀ Jun 2014

~ July 2014 ~

Aug 2014 ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9 SPCB Meeting (San Diego)	10 SPCB Meeting (San Diego)	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	Notes:	

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15 SPCB Meeting (Sacramento) (Strategic Planning?)	16 SPCB Meeting (Sacramento)	17 SPCB Meeting (Sacramento) (Strategic Planning?)	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14 SPCB Meeting (San Diego)	15 SPCB Meeting (San Diego)	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

~ April 2015 ~

◀ Mar 2015

May 2015 ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		