



## **BOARD MEETING**

### **NOTICE and AGENDA**

Wednesday, October 7, 2015  
12:00 P.M.

Thursday, October 8, 2015  
8:00 A.M.

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

Contact Person: Susan Saylor  
(916) 561-8700

### **AGENDA**

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

#### **Wednesday – 12:00 P.M.**

- I. Roll Call / Establishment of Quorum
- II. Flag Salute / Pledge of Allegiance
- III. Petition for Modification/Termination of Probation  
Angel Gallegos/OPR 10788, Branch 1
- IV. Petition for Reinstatement  
Richard Patrick Lloyd/FR 25266, Branch 3
- V. Petition for Reinstatement  
Douglas Lee Smith/OPR 9832, Branch 2
- VI. Closed Session – Pursuant to subdivision (c) (3) of Section 11126 of the Government Code, the Board will meet in closed session to consider proposed disciplinary actions, stipulated settlements, and petitions for modification / termination of probation and reinstatement

#### **Return to Open Session**

- VII. Adjournment

#### **Thursday – 8:00 A.M. Resume Open Session**

- VIII. Roll Call / Establishment of Quorum
- IX. Flag Salute / Pledge of Allegiance

**Thursday – 8:00 A.M., Continued**

- X. Approval of the Minutes from the July 22 and 23, 2015 and September 4, 2015 Board Meetings
- XI. Executive Officer's Report
  - Licensing and Enforcement Survey Results and Statistics
  - Examination Statistics
  - Staffing Changes
  - WDO Statistics
  - Examination Development – Occupational Analyses
  - Regulatory Update
  - Legislative Updates
    - SB328
    - SB799
    - AB181
    - AB551
- XII. Discussion Regarding the 30 Day Waiting Period for Applicants to Retake Licensing Examinations – Possible Board Action on Requirement
- XIII. Review and Discussion Regarding the Examination Study Guides and Reference Materials – Possible Board Action
- XIV. Status Update of Regulatory Language Development Regarding Continuing Education (CE) Integrated Pest Management Review Committee Recommended Changes to Current CE Regulations
- XV. Review, Discussion and Possible Position on AB 1545
- XVI. Announcement Structural Pest Control Board Specialist Examination
- XVII. Presentation, Discussion and Consideration of Act Review Committee Recommended Legislative and Regulatory Changes to Business and Professions Code Section 8506.1 and California Code of Regulations Sections 1970.4, 1990, 1993.2, and 1993.4 and Repeal of California Code of Regulations Section 1993.3
- XVIII. Annual Review and Possible Amendment of Board Policies and Procedures
- XIX. Board Calendar
- XX. Future Agenda Items
- XXI. Annual Election of Board Member President and Vice President
- XXII. Adjournment

The meeting may be cancelled or changed without notice. For verification, please check the Board's website at [www.pestboard.ca.gov](http://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. The public may comment on issues not on the agenda, but Board Members cannot discuss any issue that is not listed on the agenda. If you are presenting information to the Board, please provide 13 copies of your testimony for the Board Members and staff. Copying equipment is not available at the meeting location.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Structural Pest Control Board at (916) 561-8700 or email [pestboard@dca.ca.gov](mailto: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](http://www.pestboard.ca.gov)

**MINUTES OF THE MEETING OF THE  
STRUCTURAL PEST CONTROL BOARD**

The Meeting was held July 22 & 23, 2015 at the Sheraton Ontario Hotel Airport, Orchid Room,  
429 North Vineyard Avenue, Ontario, California.

**Board Members Present:**

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

**Board Members Absent:**

Naresh Duggal

**Board Staff Present:**

Susan Saylor, Executive Officer  
Robert Lucas, Assistant Executive Officer  
Kathy Boyle, Chief Enforcement Officer  
David Skelton, Administrative Analyst

**Departmental Staff Present:**

Kurt Heppler, Legal Counsel  
Frederic Chan-You, Legal Counsel

**Wednesday, July 22, 2015**

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Tamayo called the Meeting to order at 1:01 P.M. and Ms. Saylor called roll.

Board members, Tamayo, Good, Brand, Duran, Quiroz, and Utley were present.

Board member Duggal was absent.

A quorum of the Board was established.



## **FLAG SALUTE / PLEDGE OF ALLEGIANCE**

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

## **PETITION FOR REINSTATEMENT –**

### **BRADLEY KENDRICK / FR 45047, BRANCH 2 AND RA 48245, BRANCH 3**

Administrative Law Judge Kimberly Belvedere sat with the Board to hear the Petition for Reinstatement for Bradley Kendrick, Field Representative License Number 45047 and Applicator License Number 48245. Mr. Kendrick was informed that he would be notified by mail of the Board's decision.

## **PETITION FOR MODIFICATION / TERMINATION OF PROBATION**

### **JAIME CHAVEZ / OPR 11254, BRANCHES 1 AND 3**

Administrative Law Judge Kimberly Belvedere sat with the Board to hear the Petition for Modification / Termination of Probation for Jaime Chavez, Operator License Number 11254. Mr. Chavez was informed that he would be notified by mail of the Board's decision.

## **PETITION FOR REINSTATEMENT**

### **HERNANDO BARRIOS / OPR 10090 BRANCHES 2 AND 3**

Administrative Law Judge Kimberly Belvedere sat with the Board to hear the Petition for Reinstatement for Hernando Barrios, Operator License Number 10090. Mr. Barrios was informed that he would be notified by mail of the Board's decision.

## **CLOSED SESSION**

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

## **Return to Open Session**

## **ADJOURNMENT**

The Meeting adjourned for the day at 5:39 P.M.

**Thursday, July 23, 2015**

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Tamayo called the Meeting to order at 8:00 A.M. and Ms. Saylor called roll.

Board members, Tamayo, Good, Brand, Duran, Quiroz, and Utley were present.

Board member Duggal was absent.

A quorum of the Board was established.

**FLAG SALUTE / PLEDGE OF ALLEGIANCE**

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

**PUBLIC HEARING: TITLE 16, DIVISION 19, CALIFORNIA CODE OF REGULATIONS  
ADDING SECTION 1960, TO REQUIRE FINGERPRINT BACKGROUND CLEARANCE FOR  
ALL LICENSEES NOT ALREADY FINGERPRINTED UPON RENEWAL; AMENDING  
SECTIONS 1936, 1936.1, AND 1936.2, TO UPDATE AND REVISE THE OPERATOR, FIELD  
REPRESENTATIVE, COMPANY REGISTRATION AND APPLICATOR APPLICATIONS; AND  
AMENDING 1970.4 TO ALLOW THE OCCUPANT FUMIGATION NOTICE TO BE  
AVAILABLE IN ELECTRONIC FORMAT**

Mr. Tamayo outlined the nature of the proceedings for the public hearing for the proposed regulatory addition of Section 1960 to Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal.

Mr. Tamayo opened up the floor to public comment regarding the proposed regulatory addition of Section 1960 to Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal.

Mr. Utley asked if the proposed fingerprint requirement would apply to individuals who work in the pest control industry but do not hold a license.

Ms. Saylor stated that the proposed fingerprint requirement would apply only to individuals who hold a license and who have never submitted a set of fingerprints for the purposes of conducting a criminal history record check.

Mr. Duran asked if individuals who have never submitted a set of fingerprints for the purposes of conducting a criminal history record check could do so at any time after the regulation became effective or if they would need to wait until the time of renewal to do so.

Ms. Saylor stated that individuals who have never submitted a set of fingerprints for the purposes of conducting a criminal history record check could do so any time after the regulation becomes effective.

Mr. Tamayo asked if there was any public comment for the proposed regulatory addition of Section 1960 to Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal.

No further comments were received for the proposed regulatory addition of Section 1960 of Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal.

Mr. Tamayo outlined the nature of the proceedings for the public hearing for the proposed regulatory changes to Sections 1936, 1936.1, and 1936.2 to Division 19, Title 16 of the California Code of Regulations to update the Board's applications for licensure.

Mr. Tamayo opened up the floor to public comment regarding the proposed regulatory changes to Sections 1936, 1936.1, and 1936.2 to Division 19, Title 16 of the California Code of Regulations to update the Board's applications for licensure.

No public comment was received for the proposed regulatory changes to Sections 1936, 1936.1, and 1936.2 to Division 19, Title 16 of the California Code of Regulations to update the Board's applications for licensure.

Mr. Tamayo outlined the nature of the proceedings for the public hearing for the proposed regulatory change to Section 1970.4 of Division 19, Title 16 of the California Code of Regulations to allow for an electronic copy of the Occupant Fumigation Notice to be present at the time a fumigant is released.

Mr. Tamayo opened up the floor to public comment regarding the proposed regulatory change to Section 1970.4 to Division 19, Title 16 of the California Code of Regulations to allow for an electronic copy of the Occupant Fumigation Notice to be present at the time a fumigant is released.

Mike Katz, Western Exterminator Company stated his support for the proposed regulation citing the benefits of bringing regulations up to date with what modern technology allows.

Sam Tutton, Ecoskan Pest Solutions voiced his support for the proposed regulation stating that both consumers and pest control companies benefit from allowing modern technology to be employed.

Dr. Hanif Gulmahamad stated his support for the proposed regulation but also expressed concern that the County Agricultural Commissioners would not accept the Occupant Fumigation Notice in electronic format.

Lee Whitmore, Beneficial Exterminating, stated his support for the proposed regulation specifically mentioning the added convenience of storing, filing, and presenting documents electronically.

Mr. Heppler stated for the record that although the proposed regulation allows for an electronic copy of the Occupant Fumigation Notice to be present at the time the fumigant is released, it does not require it and that people who wish to continue keeping a written copy present may do so.

Dr. Hanif Gulmahamad expressed his support for continuing to allow a written copy of the Occupant Fumigation Notice to be present at the time the fumigant is released.

Mr. Utlely voiced his support for the proposed regulation stating that the increased convenience afforded by allowing an electronic copy of the Occupant Fumigation Notice to be present will benefit both consumers and the pest control industry.

No further comments were received for the proposed regulatory change to Section 1970.4 of Division 19, Title 16 of the California Code of Regulations to allow for an electronic copy of the Occupant Fumigation Notice to be present at the time a fumigant is released.

Mr. Good moved and Mr. Utlely seconded to approve the proposed language for the proposed regulatory addition of Section 1960 to Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal and for the Executive Officer to prepare and submit the final rulemaking package. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utlely. NOES: None. ABSTENTIONS: None.)

Mr. Utlely moved and Mr. Duran seconded to approve the proposed language for the proposed regulatory changes to Sections 1936, 1936.1, and 1936.2 to Division 19, Title 16 of the California Code of Regulations to update the Board's applications for licensure and for the Executive Officer to prepare and submit the final rulemaking package. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utlely. NOES: None. ABSTENTIONS: None.)

Ms. Quiroz moved and Mr. Utley seconded to approve the proposed language for the proposed regulatory change to Section 1970.4 of Division 19, Title 16 of the California Code of Regulations to allow for an electronic copy of the Occupant Fumigation Notice to be present at the time a fumigant is released and for the Executive Officer to prepare and submit the final rulemaking package. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

#### **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Baron McDonald, Clark Pest Control, asked the Board to set an agenda item for the October 2015 meeting to discuss the mandatory thirty day waiting period for applicants to re-take an examination if they fail.

#### **APPROVAL OF THE MINUTES FROM THE MARCH 25 & 26, 2015 BOARD MEETING**

Mr. Duran moved and Mr. Utley seconded to approve the Minutes of the March 25 & 26, 2015 Board Meeting. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

#### **EXECUTIVE OFFICER'S REPORT**

Ms. Saylor reported to the Board on licensing and enforcement survey results and statistics, staffing changes, WDO statistics, examination development, occupational analysis, and legislative and regulatory updates. ———

Martyn Hopper, Pest Control Operators of California (PCOC), provided the Board with a summary and a status update on Senate Bill 328 (Hueso) and Assembly Bill 551 (Nazarian) and stated that PCOC supports both.

Mr. Utley asked if the Board was actively investigating whether WDO inspection reports were being properly filed.

Ms. Saylor stated the Board runs quarterly reports on the proper filing of WDO inspection reports and that their investigation is ongoing and will continue.

Lee Whitmore, Beneficial Exterminating, asked if the Board could differentiate individual complaints when multiple complaints are filed at the same time and also stated that all of his interactions with Board staff have been pleasant and handled professionally.

Ms. Saylor stated that staff would look into differentiating individual complaints when multiple complaints are filed at the same time and thanked Mr. Whitmore for his comments regarding the conduct of Board staff.

## **PRE-TREATMENT COMMITTEE UPDATE**

Ms. Saylor updated the Board on the progress of the Pre-Treatment Committee stating that they met on April 15, 2015 and directed staff to gather specific data to be presented at a future meeting.

## **PRESENTATION, DISCUSSION AND CONSIDERATION OF CONTINUING EDUCATION (CE) INTEGRATED PEST MANAGEMENT REVIEW COMMITTEE RECOMMENDED CHANGES TO CURRENT CE REGULATIONS**

Darren Van Steenwyk, Chairman, SPCB CE IPM Review Committee, presented the recommendations (shown in Board Materials) of the CE IPM Review Committee to the Board.

Mr. Utey stated that requiring each CE category to contain a percentage of the overall hour requirement could lead to confusion and that a concrete hour requirement for each category would be preferable.

Mr. Utey asked if the Committee envisioned the proposal as a statutory or regulatory change and if it would be possible to add new subject matter into the proposed CE categories as it becomes relevant.

Mr. Tamayo stated that the proposal was intended to be implemented as a regulatory change that staff and legal counsel would draft and steer through the rulemaking process.

Mr. Good emphasized the importance of industry outreach when implementing this proposal and asked if there was discussion about a CE course that outlined the CE requirements for licensees.

Mr. Van Steenwyk stated that a CE course outlining the CE requirements for licensees was discussed and that the proposal was purposefully left broad for staff to figure out the most effective means of industry outreach.

Dr. Gulmahamad asked why the Laws and Regulations was limited to 3 hours per renewal cycle.

Mr. Van Steenwyk stated that the Committee felt that there was not enough meaningful content for the requirement to be larger than 3 hours in the Laws and Regulations category.

Mr. Whitmore stated that not having a branch specific Application and Intervention category is a step back and that as proposed, licensees could get CE that doesn't apply to their license.

Karey Windbiel-Rojas, UC IPM, expressed her support for the proposal stating that the increase in the IPM requirement will benefit consumers.

Mr. Tamayo thanked Mr. Van Steenwyk for his chairmanship of the Committee.

Mr. Duran moved and Ms. Brand seconded to approve the proposal of the CE IPM Review Committee and for staff to draft the regulatory language, with the incorporation of a branch specific requirement in the Application and Intervention category, and bring it back before the Board for approval. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

### **PRESENTATION, DISCUSSION AND CONSIDERATION OF PROPOSED RECOMMENDED CHANGES TO THE BOARD'S DISCIPLINARY GUIDELINES; CONSIDERATION OF REGULATORY AMENDMENTS**

Mr. Lucas presented to the Board the recommended changes to the Disciplinary Guidelines and explained that the goal was to provide more clarity for Board Members and Administrative Law Judges when imposing discipline.

Mr. Good moved and Mr. Utley seconded to approve the recommended changes to the Board's Disciplinary Guidelines and to direct staff to begin the rulemaking process and set a public hearing. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

### **DISCUSSION AND REVIEW OF QUALIFYING MANAGER'S RESPONSIBILITIES**

The Board discussed their previously approved recommended changes to B&P Code Section 8506.2 and considered what, if any, additional amendments might be made.

The Board made no changes to their previously approved recommended changes to B&P Code Section 8506.2.

Mr. Tamayo offered his help in finding an author to include the Board's recommended changes in a Bill during the 2016/2017 Legislative Session.

Ms. Saylor thanked Mr. Tamayo and stated that during the 2016/2017 Legislative Session Senator Hueso could possibly be an option to author a Bill incorporating the Board's recommended changes.

### **DISCUSSION OF LEGAL COUNSEL OPINION OF THE BOARD'S INVOLVEMENT IN DEVELOPMENT OF EXAMINATION STUDY GUIDES**

Mr. Chan-You presented his legal opinion that while the Board cannot participate in the production of an examination study guide, it also cannot prevent a third party from creating one, provided that no examination subversion occurs.

Robert Baker, PCOC, stated that currently the Board uses too many, and conflicting source materials in exam creation and it makes the creation of a third party study guide impractical. Mr. Baker further stated that the Board should consider using one comprehensive source book, in conjunction with the Structural Pest Control Act, to produce examination questions.

Mr. Chan-You advised the Board that the discussion of the source material used to create examination questions was outside the scope of the agenda and would need to be discussed at a future meeting so the topic could be properly noticed.

### **REVIEW AND CONSIDERATION OF STYLE OPTIONS FOR STRATEGIC PLAN WITH SPCB LOGO**

Ms. Saylor presented to the Board the final version of the Strategic Plan for their approval.

Mr. Duran moved and Ms. Brand seconded to approve the Strategic Plan. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

### **BOARD CALENDAR**

The next two meetings were previously scheduled for October 7 & 8, 2015 in Sacramento and January 13 & 14, 2016 in San Diego.

The following two meetings were scheduled for April 6 & 7, 2016 in Sacramento and July 13 & 14, 2016 in Ontario.

### **FUTURE AGENDA ITEMS**

The following items were identified as topics to be included on future agendas.

Examination study guides and examination construction including the source material used.

CE IPM regulatory language for Board approval.

Mandatory 30 day waiting period between examinations for applicants who fail.

### **ADJOURNMENT**

The meeting was adjourned at 10:31 A.M.

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Dave Tamayo, President

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Date





**MINUTES OF THE STRUCTURAL PEST CONTROL BOARD  
TELECONFERENCE MEETING**

**The meeting was held September 4, 2015 at the following locations:**

Department of Consumer Affairs, 2005 Evergreen Street,  
Lake Tahoe Conference Room, Sacramento, CA 95815

Office of the County Executive, 70 West Hedding Street, East Wing, 11th Floor,  
San Jose, CA 95110

Newport Exterminating, 16661 Millikan Avenue, Irvine, CA 92606

Cliff's Pest Control, Inc., 3165 June Street, San Bernardino, CA 92407

82229 Bliss Avenue, Indio, CA 92201

**Board Members Present:**

Dave Tamayo, President  
Curtis Good, Vice President  
Naresh Duggal  
Mike Duran  
Cliff Utley

**Board Members Absent:**

Ronna Brand  
Marisa Quiroz

**Board Staff Present:**

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

**Departmental Staff Present:**

Frederic Chan-You, Legal Counsel  
Kurt Heppler, Legal Counsel

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Tamayo called the meeting to order at 11:01 A.M. and Ms. Saylor called roll. Quorum was established.

## **PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

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

## **PRESENTATION, CONSIDERATION, AND POSSIBLE POSITION ON ASSEMBLY BILL 1545 (IRWIN) AND THE POSSIBLE TRANSFER OF THE STRUCTURAL PEST CONTROL BOARD FROM THE JURISDICTION OF THE DEPARTMENT OF CONSUMER AFFAIRS TO THE JURISDICTION OF THE HOUSING AGENCY**

Ms. Saylor gave the Board an overview of Assembly Bill (AB) 1545 which proposes to move the Board from the jurisdiction of the Department of Consumer Affairs (DCA) to the jurisdiction of a newly created Housing Agency whose stated goal would be the creation of more affordable housing.

Mr. Good expressed concern that the Board was not consulted prior to the introduction of AB 1545 and stated his belief that the Board has no role to play in the creation of affordable housing.

Mr. Tamayo stated that it would be premature for the Board to take a position on AB 1545 until more information about it became available.

Mr. Utley stated that it was difficult to understand the logic of the Board being moved from DCA to a Housing Agency and expressed concern about the possible effect of a move to Board's consumer protection mandate.

Mr. Duggal stated that there is currently a lack of information available about AB 1545 and questioned whether consumer protection would remain the Board's primary mission if a move were to occur.

Mr. Duran stated that it would be premature for the Board to take a position on AB 1545 until more information becomes available.

Mr. Heppler suggested the Board authorize Ms. Saylor to attend an interested parties meeting being held to discuss AB 1545 to express the Board's concerns and gather information to report back at the October Board Meeting.

Mr. Utley moved and Mr. Duran seconded to authorize Ms. Saylor to attend the interested parties meeting being held on September 29, 2015 to discuss AB 1545 to express the Board's concerns and gather information to report back at the October Board Meeting. Passed unanimously. (AYES: TAMAYO, GOOD, DUGGAL, DURAN, UTLEY. NOES: NONE. ABSTENTIONS: NONE.)

**ADJOURNMENT**

The meeting was adjourned at 11:28 A.M.

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Dave Tamayo, President

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Date

STRUCTURAL PEST CONTROL BOARD STATISTICS FOR AUGUST 2015		FISCAL YEAR 2015/2016		FISCAL YEAR 2014/2015	
Page 1 of 2		Monthly	Year To Date	Monthly	Year To Date
<b>EXAMINATION</b>					
Field Representatives Scheduled		453	901	396	758
Field Representatives Examined		356	743	235	478
Field Representatives Passed		132	272	41	68
Field Representatives Failed		224	471	194	410
Operators Scheduled		31	63	41	73
Operators Examined		32	62	37	70
Operators Passed		22	39	13	22
Operators Failed		10	23	24	48
Applicators Scheduled		318	672		
Applicators Examined		283	577	263	653
Applicators Passed		118	247	123	302
Applicators Failed		165	330	140	351
Field Representatives Passing Rate		37%	37%	17%	14%
Operator Passing Rate		69%	63%	35%	31%
Applicators Passing Rate		42%	43%	47%	46%
<b>LICENSING</b>					
Field Representative Licenses Issued		103	200	63	100
Operator Licenses Issued		9	21	10	17
Company Registrations Issued		17	41	19	45
Branch Office Registrations Issued		0	5	1	1
Change of Registered Company Officers		2	3	1	1
Change Of Qualifying Manager		12	25	10	18
Applicator Licenses Issued		111	269	151	316
Duplicate Licenses Issued		83	144	65	153
Upgrade Present License		15	35	9	23
Change of Status Processed		38	72	19	52
Address Change		305	443	75	324
Address Change (Principal Office)		25	53	17	33
Address Change (Branch Office)		4	9	1	1
Transfer of Employment Processed		109	342	128	294
Change of Name		5	6	2	4
Change of Registered Company Name		2	3	1	2
License Histories Prepared		18	30	9	22
Down Grade Present License		68	109	77	127
<b>LICENSES/REGISTRATIONS IN EFFECT</b>					
Field Representative			11,046		11,064
Operator			4,124		4,131
Company Registration			3,006		2,974
Branch Office			446		448
Licensed Applicator			6,802		6,582
<b>LICENSES/REGISTRATIONS ON PROBATION</b>					
Companies			19		26
Licensees			94		100

STRUCTURAL PEST CONTROL BOARD STATISTICS FOR AUGUST 2015		FISCAL YEAR 2015/2016		FISCAL YEAR 2014/2015	
Page 2 of 2		Monthly	Year To Date	Monthly	Year To Date
<b>LICENSES RENEWED</b>					
Operator		19	166	13	135
Field Representative		45	374	38	871
Applicator		12	61	49	110
<b>LICENSES/ REGISTRATIONS CANCELED</b>					
Operator		2	12	2	3
Field Representative		13	26	6	20
Company Registration		16	35	11	32
Branch Office		2	4	1	1
Applicator		3	10	121	211
<b>LICENSES DENIED</b>					
Licenses		4	5	0	1
<b>INVESTIGATIVE FINES PROCESSED</b>					
Fines Processed		\$0	\$0	\$54	\$104
Penalty Assessment		\$0	\$0	\$0	\$0
Pesticide Fines		\$16,490	\$29,650	\$5,950	\$20,395
<b>STAMPS SOLD</b>					
Pesticide		6,090	12,840	5,500	10,860
<b>SEARCHES MADE</b>					
Public		81	159	58	147
Complaints		38	74	32	64
<b>BOND &amp; INSURANCE</b>					
Bonds Processed		32	47	200	500
Insurance Processed		210	500	210	500
Restoration Bonds Processed		0	1	0	0
Suspension Orders		16	52	12	25
Cancellations Processed		25	50	215	425
Change of Bond/Insurance		29	68	160	520
<b>CONTINUING EDUCATION EXAMS</b>					
Field Representative Examined		0	0	0	0
Field Representative Passed		0	0	0	0
Field Representative Failed		0	0	0	0
Operator Examined		0	0	0	0
Operator Passed		0	0	0	0
Operator Failed		0	0	0	0
Applicator Examined		0	0	0	0
Applicator Passed		0	0	0	0
Applicator Failed		0	0	0	0

## LICENSING UNIT SURVEY RESULTS

October 7 & 8, 2015 – SPCB Meeting

June 17, 2015 – September 16, 2015

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. 171 survey cards were mailed during this reporting period. 11 responses were received.

	Question	Yes	No	N/A
1	Was staff courteous?	82%	9%	9%
2	Did staff understand your question?	91%	0%	9%
3	Did staff clearly answer your question?	82%	9%	9%
4	Did staff promptly return your telephone call?	73%	9%	18%
5	Did staff efficiently and promptly handle your transaction?	82%	18%	0%
6	How long did it take to complete its action on your file?* (Average)	23 days		

\*There were 7 responses to question 6, ranging from 1 day to 60 days.

**Company Registration:** 29 days average (2 responses)

**Operator License:** 60 days average (1 response)

**Field Representative License:** N/A (0 responses)

**Applicator License:** 22 days average (2 responses)

**Transfer of Employment:** No responses

**Change of Address:** No responses

**Bond/Insurance:** No responses

**Change of Qualifying Manager:** No responses

**Examination:** 1 day average (2 responses)

Comments:

- Great job!

- Frank is awesome. Thank you for all your help.
- Thank you Frank Munoz, you are an asset to the SPCB.
- Call me if you need more info.
- They were very helpful and someone was always available to answer my questions.
- Frank Munoz is great!



# EXAMINATION STATISTICS AS OF 09/18/2015

Examination	Stat Dates	Release Date	# of Examinees	Passing Rate	Repeat Examinees	1st Time Passers
RA	1/1/15 - 2/28/15	Jan-15	162	39%	4	
RA	3/1/15 - 09/18/2015	Mar-15	1900	47%	561	48%
FR1	3/1/15 - 09/18/2015	May-13	51	39%	16	37%
FR2	1/1/15 - 2/28/15	Jun-14	464	24%	208	
FR2	3/1/15 - 09/18/2015	Mar-15	1939	40%	856	44%
FR3	1/1/15 - 2/28/15	Jun-14	245	22%	129	
FR3	3/1/15 - 09/18/2015	Mar-15	650	44%	302	42%
OPR1	3/1/15 - 09/18/2015	May-13	17	41%	12	60%
OPR2	3/1/14 - 12/31/14	May-13	81	36%	75	
OPR2	3/1/15 - 09/18/2015	Jan-15	135	54%	54	67%
OPR3	03/17/14 - 12/31/14	May-13	101	49%	27	
OPR3	3/1/15 - 09/18/2015	Jan-15	69	68%	22	72%

CURRENT VERSION OF EXAM
PREVIOUS VERSION OF EXAM

## WDO ACTIVITIES FILED

	2011/12	2012/13	2013/14	2014/15	2015/16	MO. AVG
<b>July</b>	116,972	110,432	123,958	122,803	121,639	118,541
<b>August</b>	124,622	110,534	116,087	112,400	112,511	115,911
<b>September</b>	117,013	103,223	129,161	116,100		116,374
<b>October</b>	120,171	120,645	117,714	123,250		120,445
<b>November</b>	110,723	102,655	103,787	94,750		102,979
<b>December</b>	91,644	88,935	101,132	95,373		94,271
<b>January</b>	84,492	94,775	92,959	88,247		90,118
<b>February</b>	95,226	98,208	88,870	97,884		95,047
<b>March</b>	108,429	114,785	109,979	124,448		114,410
<b>April</b>	118,528	121,802	122,692	131,292		123,579
<b>May</b>	111,594	115,207	114,956	116,578		114,584
<b>June</b>	113,080	116,313	117,773	124,648		117,954
<b>FY Total</b>	<b>1,312,494</b>	<b>1,297,514</b>	<b>1,339,068</b>	<b>1,347,773</b>		<b>1,324,212</b>
AVG PER MO.	109,375	108,126	111,589	112,314		

# STRUCTURAL PEST CONTROL BOARD

## REGULATORY ACTION STATUS

SECTION	SUBJECT	STATUS
1911	Addresses – Permits licensees to request a mailing address other than the address of record.	March 13, 1996 – Approved by the Office of Administrative Law.
	Addresses – Requires applicators to report change of address.	August 12, 1996 – Approved by the Office of Administrative Law.
	<b>Transfer of Employment – Allow employers to disassociate employees</b>	<b>January 15, 2015 – Proposed text approved by Board Members</b> <b>Contradicts B&amp;P Code Section 8567 – Being referred to Act Review Committee</b>
1912	Branch Office Registration – Section 100 Change. To change the phrase “A registered company who opens a branch shall ...” to “A registered company which opens a branch office shall...”	Section 100 Change – Approved by the Office of Administrative Law on May 17, 2004.
1914	Name Style – Delete Board’s responsibility to disapprove confusingly similar name styles.	December 16, 1998 – Public Hearing. Disapproved by the Board. April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 Approved by the Office of Administrative Law.

1918	Supervision – Clarifies that a field representative or an operator can supervise.  Supervision – Permits qualifying managers to supervise multiple locations.	August 12, 1996 – Approved by the Office of Administrative Law.  December 16, 1998 – Public Hearing. Referred to Rules and Regulations Committee. August 6, 1999 – Modified language mailed. January 11, 2001 Public Hearing. Adopted by the Board. Rulemaking file not completed by deadline of December 1, 2001
1918	Re-states supervision of multiple locations, clarifies liability / responsibility of qualifying manager[s] & supervisor(s).	April 4, 2003 Public Hearing, referred to Rules and Regs Committee. Committee meeting held September 17, 2003. Placed on agenda for October 17, 2003 Bd. Mtg. Modified Text mailed Nov. 19, 2003. Comments due Dec. 3, 2003. No comments rec'd. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.
1919	Research Panel – Deletes reference to public board member on panel.	March 13, 1996 – Approved by the Office of Administrative Law.
1920	Cite & Fine – Authorizes board staff to issue citations and fines.  Cite & Fine – Amends to clarify no appeal after modification of decision.	August 13, 1998 – Approved by the Office of Administrative Law.  October 15, 1999 – Public Hearing - Board voted to adopt.
1920 (e)(1)(2)(3)	Cite & Fine – Specifies that a second informal conference for a modified citation will not be allowed.	January 11, 2001 - Public Hearing - Board voted to adopt. December 1, 2001 Rulemaking File not completed by deadline. April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.

1920(b)	Citation - Assessment of Fines - SB 362 increased max fine amt to \$5000.  Repealed specific criteria required in assessing fines in excess of \$2,500.	Section 100 Change pending Administrative decision to go forward. Filed with Sec. of State: 12-18-03. Board approved DCA's four sets of circumstance for max. fine on October 8, 2004. Noticed for Public Hearing July 15, 2005. December 30, 2005 - Approved by the Office of Administrative Law. Agency subsequently agreed that the specific criteria from 2004 for fines in excess of \$2,500 should no longer apply. Board approved on April 22, 2010. December 22, 2010 Notice, ISOR, Language, Std 399 submitted to Linda Olani for review/approval by DPR and Agency. April 12, 2011 DPR returned package with approval signatures. May 10, 2012 - Public Hearing - Board voted to adopt. March 22, 2013 rulemaking file filed with Office of Administrative Law May 8, 2013 - Disapproved by OAL Economic Impact Statement not included June 25, 2013 - 15 day notice to add Economic Impact Statement July 17, 2015 - Resubmitted to OAL August 8, 2013 - Approved by OAL Became Effective October 1, 2013
1922	Civil Penalty Actions by Commissioners - Specifies penalty ranges. Penalty ranges serious, minor and moderate upped to mirror new law.	May 14, 1998 - Approved by the Office of Administrative Law. Noticed for Public Hearing: October 7, 2005. Adopted by the Board. August 25, 2006 - Approved by the Office of Administrative Law.
1922.3	Course requirements by County Agricultural Commissioners - Will place into regulation specific guidelines for licensee / County Ag Commissioners re: civil penalty actions.	Noticed for the April 23, 2004 Board Meeting. Approved by the Office of Administrative Law - July 6, 2005.



1923	Consumer Complaint Disclosure.	July 18, 2003 - Public Hearing - Board approved to adopt after proposed language modified with a 15-day public comment period. Rulemaking file placed on hold due to Executive Order. Withdrawn by DCA Legal Dept. Noticed for Public Hearing: October 7, 2005. Board voted to not proceed. (Language needs re-drafting – (a)4(d)(A) and (B)(ii) – now conforms to healing arts situation, and, if [A] is satisfied – so is [B])
1934	Board Approved Operator's License Course – Specifies time period in which courses must be completed.	August 13, 1998 – Approved by the Office of Administrative Law.
1936	<b>Operator and Field Representative License Applications Revisions to include military / veteran status, revised criminal history question, etc.</b>	March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms June 4, 2015 - Noticed for Public Hearing <b>July 23, 2015 - Public Hearing – Adopted by Board</b> <b>August 20, 2015 – To DCA for Legal Review</b>
1936.1	<b>Company Registration Form Revisions to include military / veteran status, revised criminal history question, etc.</b>	March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms June 4, 2015 - Noticed for Public Hearing <b>July 23, 2015 - Public Hearing – Adopted by Board</b> <b>August 20, 2015 – To DCA for Legal Review</b>
1936.2	Applicator – Established by regulation the form for the applicator's license.  <b>Applicator License Application Form Revisions to include military / veteran status, revised criminal history question, etc.</b>	August 12, 1996 – Approved by the Office of Administrative Law.  March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms June 4, 2015 - Noticed for Public Hearing <b>July 23, 2015 - Public Hearing – Adopted by Board</b> <b>August 20, 2015 – To DCA for Legal Review</b>

1937	Qualification of Applicant – Specifies minimum number of hours of training and experience. IPM training and experience – Requires that branch 2 and/or 3 applicants complete training and experience in structural Integrated Pest Management as part of their pre-licensing requirements	August 13, 1998 – Approved by the Office of Administrative Law. January 2008 – Noticed for Public Hearing to amend the current regulation. April 18, 2008 - Public Hearing - Board approved to adopt. June 26, 2008 - Rulemaking file submitted to DCA for Director review. November 18, 2008 – Clarification of the effective date needed for section 1950 of the rulemaking file. January 6, 2009 – Rulemaking file submitted to DCA for Director review. March 20, 2009 - Approved by the Office of Administrative Law.
1937.11	Disciplinary Guidelines – Incorporates by reference the Manual of Disciplinary Guidelines and Model Disciplinary Orders. Clean up language to change reference of UC Berkeley correspondence course to a CE course approved by board.	April 14, 1997 – Approved by the Office of Administrative Law. Board approved on October 28, 2010. December 22, 2010 Notice, ISOR, Language, Std 399 submitted to Linda Otani for review/approval by DPR and Agency. April 12, 2011 DPR returned package with approval signatures. May 10, 2012 – Public Hearing - Board voted to adopt. March 22, 2013 rulemaking file filed with Office of Administrative Law May 8, 2013 – Disapproved by OAL Economic Impact Statement not included June 25, 2013 – 15 day notice to add Economic Impact Statement July 17, 2015 – Resubmitted to OAL August 8, 2013 – Approved by OAL Became Effective October 1, 2013

1937.11	Revisions regarding when suspension time must be served, length of probation, tolling of probation, etc.	March 26, 2015 - Board ask for additional time to review and ensure that maximum penalties are sufficient. July 23, 2015 - Approved by Board Members
1937.17	Customer Notification of Licensure – Adopts regulation requiring practitioner notification to customer of licensure.	October 15, 1999 – Public Hearing - Referred to committee. January 18, 2002 - Public Hearing adopted by the board with modified text. December 16, 2002 - Approved by the Office of Administrative Law.
1940 1941 1942	Applicator – Amends these actions to make distinction between field representatives, operators and applicators.	August 12, 1996 – Approved by the Office of Administrative Law.
1948	Applicator Renewal Fee – Establishes the fee for applicator license renewal. Applicator – Establish and specify fee for applicator's license and license renewal.	June 26, 1998 – Public Hearing. Pending approval by Department of Finance. January 20, 2000 – Public Hearing - Board voted to adopt. March 13, 2002 disapproved by OAL. April 12, 2002 Public Hearing: Board voted to take no action. May 5, 2002: Rulemaking file submitted to the Director. July 7, 2002 file disapproved, DCA opposed approval due to Board's current fund condition. April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. April 2005 - DCA opposed proposal. Withdrawn from rulemaking file on April 28, 2005 for separate submission. Noticed for Public Hearing: October 7, 2005. Adopted by the Board. August 25, 2006 – Approved by the Office of Administrative Law.
1948	Applicator license/renewal fee lowered to \$10, Operator license/renewal fee lowered to \$120.	



	Field Representative - Increase field representative examination fee.	October 15, 1999 - Public Hearing - Adopted by the Board. January 20, 2000 Board decided to drop this section.
1950	Continuing Education - Deletes outdated renewal requirements.	August 12, 1996 - Approved by the Office of Administrative Law.
1950	Applicator Continuing Education - Establish and specify number and type of continuing education hours required for renewal of applicator's license. At April 2005 Hearing CE hours were changed to 12 hrs total, 8 covering pesticide application/use and 4 covering SPC Act & its rules & regulations or structural pest related agencies' rules & regulations.	June 26, 1998 - Public Hearing. Pending approval by Department of Finance. January 20, 2000 - Public Hearing Board voted to adopt. March 13, 2001 disapproved by the OAL. April 12, 2002 - Public Hearing. Board voted to adopt. Disapproved by the Director July 7, 2002. April 4, 2003 - Public Hearing - Board voted to proceed after 15-Day Notice. Notice mailed June 11, 2003, final comments due June 30, 2003. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Board voted to proceed after a 15-Day Notice. Notice mailed: May 27, 2005. March 21, 2006 - Approved by the Office of Administrative Law.
1950	Continuing Education - Deletes language regarding Wood Roof Cleaning & Treatment Continuing Education - Hours.	Change without Regulatory Effect - Approved by the Office of Administrative Law effective March 26, 2002.
	Continuing Education - To establish four hours in ethics for license renewal of Operators and Field Representatives.	Noticed for April 23, 2004 Bd. Mtg. Matter considered and rejected at July 23, 2004 Special Mtg. Withdrawn July 2004 with Notice of Decision Not to Proceed.
	Continuing Education - Requires that branch 2 and/or 3 licensees gain continuing education hours in structural Integrated Pest Management as part of their license renewal requirements.	Noticed for the April 18, 2008 Board Meeting. April 18, 2008 - Public Hearing - Board approved to adopt after proposed language modified with a 15-day public comment period. June 26, 2008 - Rulemaking file submitted to DCA for Director review. November 18, 2008 - Clarification of the effective date needed for section 1950 of the rulemaking file. January 6, 2009 - Rulemaking file submitted to DCA for Director review. March 20, 2009 - Approved by the Office of Administrative Law.

1950.1	Armed Services Exemption - Grants a one-year extension for a licensee to complete his/her continuing education requirements if his/her license expired while serving for the United States armed services.	Noticed for the January 23, 2009 Board Meeting. January 23, 2009 - Public hearing, Board voted to send out 15-day notice of modified text. February 9, 2009 - Notice of modified text sent out. June 10, 2009 - Rulemaking file submitted to DCA for Director review. August 5, 2009 - Received approved rulemaking file from DCA. August 5, 2009 - Final rulemaking file submitted to OAL. September 16, 2009 - Approved by the Office of Administrative Law
1950.5(c),(d) (g),(h),(g)	Continuing Education - Requires that course providers administer a second examination.	March 13, 1996 - Approved by the Office of Administrative Law.
1950.5(c),(d) (g),(h),(g)	Continuing Education Requirements, Hour Value System, removal of language regarding wood roof cleaning and treatment.	March 26, 2002 - Approved by the Office of Administrative Law
1950.5	Hour Value System - Require all C.E. providers to administer written tests after licensees complete approved courses in technical or rules and regulations; equivalent activities will no longer be granted C.E.; Board mtg. attendance will drop to 4 hrs total C.E. credit - 1 hr General Ed and 1 hr Rules & Regs per meeting.  Hour Value System - Establish an hour value for board approved Integrated Pest Management courses.	Noticed for the April 23, 2004 Board Meeting. Approved by the Office of Administrative Law - July 6, 2005.  Noticed for the April 18, 2008 Board Meeting. April 18, 2008 - Public Hearing - Board approved to adopt. June 26, 2008 - Rulemaking file submitted to DCA for Director review. November 18, 2008 - Clarification of the effective date needed for section 1950 of the rulemaking file. January 6, 2009 - Rulemaking file submitted to DCA for Director review. March 20, 2009 - Approved by the Office of Administrative Law.
1951	Continuing Education - Makes distinction between field representative, operators and applicators.	August 12, 1996 - Approved by the Office of Administrative Law.

	Continuing Education - Licensing examination to replace continuing education examination. Examination in Lieu of C.E. - To change references of operator/field representative to "licensee" and clarify that a passing score is 70% or higher.	October 15, 1999 - Public Hearing - referred to committee. April 6, 2000 - Committee recommendations to the Board. Noticed for the April 23, 2004 Board Meeting. Approved by the Office of Administrative Law - July 6, 2005.
1953(a)	Providers of Continuing Education - C.E. providers that providers do not charge an attendee fee to be exempt from the \$25 course approval fee. Thus eliminating financial burden to the provider.  Adopt a revised form 43M-18.	January 11, 2001 - Public Hearing - Board voted to adopt. February 2001-DCA opposed proposal.  July 18, 2003 - Public Hearing Board voted to adopt new form. March 17, 2004 Rulemaking file on hold due to Executive Order. Approved by Office Of Administrative Law on August 12, 2004.
1953(f)(3)	Approval of Activities - Revised Form.	July 18, 2003 Public Hearing - Board voted to adopt the revised form. Approved by Office Administrative Law, Section 100 Change effective on May 2, 2003.
1953(f)(3)	Section 100 Change - Typo. The dates for the form numbers were duplicated. Delete (New 5/87) and replace it with (Rev. 11/99) Revise the form - Return it back to 43M-38 (5/87). Current form (Rev. 11/99) is obsolete.	Section 100 Change to OAL on May 13, 2004. Withdrawn June 17, 2004. Change requires language be re-noticed. Board needs to notice for public hearing.
1953(3) (A)(C)(D)(E) (4)(g)	Correction of reversal of form numbers 43M-38 and 43M-39 in language and 43M-39 given Rev. 10/03 date.  Approval of Activities - Clean up language in item (3)(A), define "syllabus" in item (3)(C), revision of form No 43M-39, and language regarding the cost of postage in item (3)(D), delete the words "or products" and language regarding the approval for meetings of in-house staff or employee training being approved in item (4)(g).	Approved by the Office of Administrative Law - July 6, 2005  Noticed for April 23, 2004 Board Meeting. Approved by the Office of Administrative Law - July 6, 2005.

1953(f)(3)(D)	Approval of Activities - Remove the requirement that continuing education course providers provide course evaluation forms to students.	Noticed for the April 18, 2008 Board Meeting. April 18, 2008 - Public Hearing - Board approved to adopt. June 26, 2008 - Rulemaking file submitted to DCA for Director review. November 18, 2008 - Clarification of the effective date needed for section 1950 of the rulemaking file. January 6, 2009 - Rulemaking file submitted to DCA for Director review. March 20, 2009 - Approved by the Office of Administrative Law.
<b>1960 (New, Proposed)</b>	<b>Fingerprint Requirement - requires all licensees who have not previously been fingerprinted to do so upon license renewal</b>	March 26, 2015 - Text Approved by Board Members June 4, 2015 - Noticed for Public Hearing <b>July 23, 2015 - Public Hearing - Adopted by Board August 20, 2015 - To DCA for Legal Review</b>
1970	Standards - Construction elements allowing passage of fumigants.	October 12, 2000 - Public Hearing - Board voted to adopt with modifications. November 23, 2001 - Approved by the Office of Administrative Law.
1970	Fumigation Log - Delete the reporting requirements of the name and address of the guard, and delete the date and hour the police department was notified of fumigation. Rev. form 43M-47.	January 11, 2001 - Public Hearing - Board voted to adopt. Rulemaking file not complete by deadline of December 1, 2001. April 4, 2003 - Public Hearing. Due to errors in language, re-noticed for July 18, 2003 - Public Hearing. Board voted to adopt new language and revise log form number 43M-47. Approved by Office of Administrative Law on August 12, 2004.
	Add additional fumigant calculators on the Fumigation Log	Noticed for Public Hearing July 20, 2007. July 20, 2007 - Public Hearing. Board voted to adopt. September 26, 2007 language under DCA legal review by the Director. March 17, 2008 - Approved by the Director, filed with the Office of Administrative Law. April 29, 2008 - Approved by the Office of Administrative Law.

	Standards and Record Requirements - Fumigating contractors will be required to provide a complete fumigation log to its prime contractors and retain the log for 3 years.	July 18, 2003 - Board voted to place on October 17, 2003 board meeting agenda. October 17, 2003 Board voted not to adopt.  Noticed for Public Hearing July 20, 2007. July 20, 2007 - Public Hearing. Board voted to adopt. September 26, 2007 language under DCA legal review by the Director. March 17, 2008 - Approved by the Director, filed with the Office of Administrative Law. April 29, 2008 - Approved by the Office of Administrative Law.
1970.3	Securing Against Entry - Includes clamshell locks and pins in general description of secondary locks.	March 13, 1996 - Approved by the Office of Administrative Law.
1970.4	Pesticide Disclosure Requirement - Requires primary contractor to retain OFN for three years.	July 28, 1995 - Board voted to adopt. Technical error - Necessary to re-notice all amendments.
1970.4	Pesticide Disclosure Requirement - Includes the required Occupants Fumigation Notice into regulation.	May 12, 1995 - Public Hearing. Referred to the Laws and Regulations Committee for further review. December 8, 1995 - Board adopted revision to the OFN. Technical error-Necessary to re-notice all amendments.
	Pesticide Disclosure Requirement - Requires primary contractor to retain Occupants Fumigation Notice (OFN) for three years. Includes the required OFN into regulation.	April 28, 1998 - Approved by the Office of Administrative Law.
	Pet Notification - Amends OFN to include notification regarding neighboring pets.	January 20, 2000 - Board voted to adopt. June 23, 2000 Board voted not to proceed. January 2005 Board voted to proceed. Noticed for Public Hearing July 15, 2005. December 30, 2005 - Approved by the Office of Administrative Law.
	Disclosure Requirement - Deletes language regarding Wood Roof Cleaning & Treatment Pesticide.	March 26, 2002 change without regulatory effect approved by the Office of Administrative Law.

	Disclosure Requirement – Include presence of conduit language on the OFN	Noticed for Public Hearing July 20, 2007. July 20, 2007 - Public Hearing. Board voted to adopt. September 26, 2007 language under DCA legal review by the Director. March 17, 2008 – Approved by the Director, filed with the Office of Administrative Law. April 29, 2008 – Approved by the Office of Administrative Law.
<b>1970.4</b>	<b>Allows for signed Occupants Fumigation Notice to be in electronic format</b>	January 15, 2015 - Text Approved by Board Members June 4, 2015 - Noticed for Public Hearing <b>July 23, 2015 - Public Hearing</b> <b>August 20, 2015 – To DCA for Legal Review</b>
1970.5	Aeration - Clarifies that a field representative or operator must be present during aeration.  Amendment regarding when licensee is required to be present to correlate with DPR's CAP regulation. – DEAD 05/10/12	August 12, 1996 – Approved by the Office of Administrative Law.  December 22, 2010 Notice, ISOR, Language, Std 399 submitted to Linda Otani for review/approval by DPR. March 11, 2011 DPR request this regulation be repealed. April 28, 2011 Board voted to repeal regulation. May 10, 2012 – Public Hearing – Board voted to non-adopt proposed repeal of regulation.
1970.6	Fumigation - Construction elements allowing passage of fumigants.	December 16, 1998 - Public Hearing - Action postponed until further input. June 18, 1999 - Board voted to adopt with modifications. November 23, 2001 - Approved by the Office of Administrative Law.
1971	Gas Masks – Removed the subsection concerning gas masks. B&P Code section 8505.15 was repealed January 1, 2008	Noticed for Public Hearing July 24, 2009 July 24, 2009 – Board members voted to carryover to next board meeting. October 22, 2009 – Board members voted not to proceed with amending the regulation.
1973	Re-entry Requirements - Requires use of proper testing equipment and changes printing on re-entry notice from red to black.	March 13, 1996 - Approved by the Office of Administrative Law.

1973	Notice of Re-entry – Replace a product trade name with the active ingredient.	Noticed for Public Hearing July 20, 2007. July 20, 2007 - Public Hearing. Board voted to adopt. September 26, 2007 language under DCA legal review by the Director. March 17, 2008 – Approved by the Director, filed with the Office of Administrative Law. April 29, 2008 – Approved by the Office of Administrative Law.
1974	Fumigation Warning Signs - Specifies size and placement of signs.  Fumigation warning signs to include the name of the fumigant used and its active ingredient.	March 13, 1996 - Approved by the Office of Administrative Law.  Noticed for Public Hearing January 21, 2010 Public hearing held January 21, 2010 – Board voted to adopt. May 18, 2010, Rulemaking File submitted to DPR for approval. September 23, 2010 DPR returned package with approval signatures. September 30, 2010 Rulemaking File submitted to OAL. November 8, 2010 approved by OAL.
1983(i)	Handling, Use and Storage of Pesticides - Clarification of bait station (rodenticide and avicide) reference.	December 16, 1998 - Public Hearing December 30, 1998 - Notice of Modification mailed. January 11, 2001 - Public Hearing - Board voted to adopt. Rulemaking File not complete by deadline date of December 1, 2001. April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.
1983(j)	Language regarding the removal of termite bait stations when a contract for service is terminated.	July 18, 2003 - Public hearing Board voted to adopt with proposed amendments. Approved by the Office of Administrative Law on August 12, 2004

1984	Proposed regulation to define structural Integrated Pest Management	October 2007 – Noticed for Public Hearing to adopt new section. March 10, 2008 – Final rulemaking file submitted to the Department. June 6, 2008 – Approved by the Director, filed with the Office of Administrative Law. July 9, 2008 - Approved by the Office of Administrative Law. Noticed for the January 23, 2009 Board Meeting. January 23, 2009 - Public hearing, Board voted to adopt with proposed amendments. June 10, 2009 - Rulemaking file submitted to DCA for Director review. August 5, 2009 – Received approved rulemaking file from DCA. August 5, 2009 – Final rulemaking file submitted to OAL. September 16, 2009 – Approved by the Office of Administrative Law
1990	Report Requirements - Defines separated reports and structural members, and addresses reporting requirements for carpenter ants/bees.	March 13, 1996 - Approved by the Office of Administrative Law.
1990(g)	Report Requirements – Inspection of wooden decks.	April 28, 1998 - Approved by the Office of Administrative Law.
1990.1	Report Requirements - Repeal language under Section 8516.1(b) and (c)(1)(8).	March 26, 2002 change without regulatory effect - Approved by the Office of Administrative Law.
1991	Report Requirements - Eliminates requirement to cover accessible pellets and frass, and requires replacement of wood members no longer serving purpose to support or adorn the structure.	March 13, 1996 - Approved by the Office of Administrative Law.
1991(A)(B)(C)	Report Requirements - Specifies the restoration, refastening, removal or replacement of wooden decks, wooden stairs or wooden landings.	April 28, 1998 - Approved by the Office of Administrative Law.
1991(a)(5)	Report Requirements – Allows for reinforcement of fungus infected wood and permits surface fungus to be chemically treated or left as is	April 3, 1996 – Approved by the Office of Administrative Law.



1991(a)(5)	once the moisture is eliminated.	
1991(a)(8)(c)	Report Requirements – Requires registered companies to report that local treatment and/or corrective work will not eradicate other undetected infestations which may be located in other areas of the structure.	October 6, 1995 – Public Hearing - Board voted to non-adopt. Referred to committee to consider the matter of an all-encompassing disclosure statement on all inspection reports addressing inaccessible areas and potential infection and infestations.
	Report Requirements - Local treatment notification.	October 15, 1999 Public Hearing - Board voted to adopt. January 11, 2001 - Referred back to committee for comments. October 19, 2001 Public Hearing - Board voted to non-adopt, referred language back to committee. August 31, 2002 publication date expired. October 11, 2002 - Re-noticed -Public Hearing. Board voted to adopt. January 8, 2003 language under DCA legal review by the Director. February 21, 2003 filed with the Office of Administrative Law. Rulemaking file withdrawn from OAL March 27, 2003 pending a 15-Day Notice. File resubmitted to OAL. July 26, 2003 - Approved by the Office of Administrative Law.
1991(a)(9)	Report Requirement - Corrective Measures for extermination of a subterranean termite infestation and termite tubes. Exception for above ground termite bait stations.	January 11, 2001 Board voted to amend 1991(a)(9). October 19, 2001 Board passed unanimously to modify language with a 15-Day Notice. Notice mailed January 28, 2002, 1 year past the publication date. Bd. needs to re-notice. Noticed for Public Hearing July 15, 2005. December 30, 2005 – Approved by the Office of Administrative Law.
1991(13)(A) (B)(C)	Report Requirements - Delete specific recommendations regarding wooden decks, wooden stairs and landings. Language already exists in 1991(a)(5).	October 19, 2001 Board voted to repeal the language. August 31, 2002 publication date expired. April 4, 2003 - Public Hearing. Board voted to go forward after 15-Day Notice. Notice mailed June 11, 2003, final comments due June 30, 2003. February 14, 2004 rulemaking file expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.

1991(b)(10)	Report Requirements – Non-substantive correction to heading.	March 28, 2000 – Filed with the Office of Administrative Law. May 15, 2000 - Approved by the Office of Administrative Law.
1993(a)(b) (c)(d)(e)	Inspection - Specifies that reports shall comply With 8516 and defines different types of inspection reports. Also clarifies difference between duties performed by a field representative, operator and applicator.  Inspection Reports - Clarifies that the requirement applies to licensed field representative and licensed operators, not license applicators.	March 13, 1996 - Approved by the Office of Administrative Law.  August 12, 1996 - Approved by the Office of Administrative Law.
	Deletes language regarding the filing of stamps.	April 4, 2003 - Public Hearing - Board voted to adopt. February 14, 2004 rulemaking file expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 -Approved by the Office of Administrative Law.
1993, 1998	Report Requirements – To eliminate reference to filing inspection reports and notices of work completed and require companies to file the address of properties inspected.	January 20, 2000 - Public Hearing Board voted to adopt. March 13, 2001 Rulemaking File disapproved by the Office of Administrative Law. April 4, 2003 - Public Hearing. Sec.1996 proceed with a 15-Day Notice, Sec. 1996.3 re-notice for July 18, 2003 meeting, Sec.1993 & 1998 Board voted to adopt. February 14, 2004 Rulemaking File expired due to Executive Order. Noticed for Public Hearing: April 8, 2005. Adopted by the Board. March 21, 2006 - Approved by the Office of Administrative Law.
1993.1	Reinspection Language – To adopt section 1993.1 to require Wood Destroying Pest and Organism Inspection Reports to contain statement that work performed by others must be reinspected within ten days of request at a charge no greater than the original inspection fee.	May 22, 1998 – Rulemaking file disapproved by Office of Administrative Law. December 16, 1998 – Public Hearing. December 30, 1998 - Notice of Modifications mailed. January 11, 2001 - Public Hearing. Board voted to adopt. December 1, 2001 rulemaking file not completed by deadline. April 4, 2003 re-noticed for Public Hearing. Approved by the Office of Administrative Law - July 6, 2005.

1993.2	Bait Stations.	October 19, 2001 Board passed to adopt new language. Publication date expired. October 11, 2002 language re-noticed for Board meeting. December 23, 2002 rulemaking file under review. January 8, 2003 under DCA legal review by the Director. February 21, 2003 filed with the Office of Administrative Law. March 27, 2003 rulemaking file withdrawn from OAL pending a 15-Day Notice. July 26, 2003 - Approved by the Office of Administrative Law.
1993.3	Bait Stations.	October 12, 2001 Board passed to adopt new language. Publication date expired. Language re-noticed for October 11, 2002 Board meeting. Rulemaking package under review 12-23-02. January 8, 2003 – Under DCA legal review by the Director. February 21, 2003 filed with the Office of Administrative Law. March 27, 2003 rulemaking file withdrawn from OAL pending a 15-Day Notice. July 26, 2003 - Approved by the Office of Administrative Law.
1996	Pre-Treatment - Specifies Pre-Treatment Inspection Report/Notice of Intent form.	August 30, 1996 - Public Hearing. Amendment was not adopted. Board referred to Pre-Treatment Committee.
1996	Inspection Report – Includes a first page of the Inspection Report for scanning purposes.	August 13, 1998 – Approved by the Office of Administrative Law.
1996	Requirements for Reporting All Inspections Under Section 8516(b).	January 18, 2002 Public Hearing - Board voted to adopt. Form Rev. date completed 1-15-03. April 4, 2003 Board again voted to adopt regulatory lang. Noticed for Public Hearing July 15, 2005. December 30, 2005 – Approved by the Office of Administrative Law.
1996.2	Revised Inspection Report Form and Standard Notice of work Completed and Not Completed.	December 16, 2002 - Approved by the Office of Administrative Law.

1996.1	Inspection and Completion Tags - The completion tag shall include the method(s) of treatment.  Completion tag to include the trade name of any pesticide used and active ingredient.	July 18, 2003 Public Hearing - Board members voted to adopt. Rulemaking file placed on hold due to Executive Order. Approved by Office of Administrative Law August 12, 2004 Noticed for Public Hearing January 21, 2010 Public hearing held January 21, 2010 - Board voted to adopt. May 18, 2010, Rulemaking File submitted to DPR for approval. September 23, 2010 DPR returned package with approval signatures. September 30, 2010 Rulemaking File submitted to OAL. November 8, 2010 approved by OAL.
1996.2	Completion Notice - Includes a first page of the Completion Notice for scanning purposes. Revised Completion Notice Form.	August 13, 1998 - Approved by the Office of Administrative Law. January 18, 2002 Public Hearing - Adopted by the Board. December 16, 2002 - Approved by the Office of Administrative Law.
1996.3	Requirements for Reporting property addresses. Adopt new language that will provide guidelines of what is required when filing the WDO form with the Board.  Increase filing fee to \$2.00 on form  Increase filing fee to \$2.50 on form	March 17, 2003 Rulemaking file on hold due to Executive Order. July 18, 2003 Public Hearing - Board voted to adopt after a 15-Day Notice of modified language. Approved by Office of Administrative Law July 13, 2004  Noticed for Public Hearing July 24, 2009 July 24, 2009 - Board voted to adopt. Sept. 3, 2009 - Rulemaking file submitted to DCA for review. January 21, 2010, Board considered 15-day comments to increase fee to \$2.50. Board voted to adopt at \$2.50 per activity. May 20, 2010 Office of Administrative Law approves Rulemaking File to increase fee to \$2.50 effective July 1, 2010.

1997	Filing Fee – Inspection Reports and Completion Notices.	October 15, 1996 – Approved by the Office of Administrative Law.
	Filing Fee – Inspection Reports and Completion Notices – Fee increase.	December 16, 1998 – Public Hearing Adopted by Board. Rulemaking file not submitted based on recommendations from DCA that fee increase not necessary to fund condition.
	Filing Fee – WDO Activity Filing Fee.	December 16, 1999 – Non-substantive change without regulatory effect filed with the Office of Administrative Law. January 28, 2000 - Approved by the Office of Administrative Law.
1997	Filing Fee – Increase WDO Activity Filing Fee to \$2.00.	Noticed for Public Hearing July 24, 2009 July 24, 2009 Board voted to adopt. Sept. 3, 2009 – Rulemaking file submitted to DCA for review.
	15-Day Modified Text to increase fee to \$2.50 per activity effective July 1, 2010	Dec. 28, 2009 – Board passed unanimously to modify language with a 15-Day Notice. Notice mailed on December 29, 2009, final comments due January 13, 2010
		January 21, 2010, Board considered 15-day comments to increase fee to \$2.50. Board voted to adopt at \$2.50 per activity. May 20, 2010 Office of Administrative Law approves Rulemaking File to increase fee to \$2.50 effective July 1, 2010.

1999.5	Advertising Guidelines.	<p>June 18, 1999 – Public Hearing</p> <p>August 27, 1999 – Modified language mailed November 22, 2001 approved by the Office of Administrative Law.</p> <p>September 24, 2002 non-substantive change without regulatory effect approved by the Office of Administrative Law.</p> <p>October 2007 – Noticed for Public Hearing to amend the current regulation.</p> <p>January 2008 – Board moved to request further analysis by Legal Counsel and staff.</p> <p>June 26, 2008 - Rulemaking file submitted to DCA for Director review.</p> <p>September 11, 2008 - Rulemaking file submitted to OAL for approval.</p> <p>October 24, 2008 - Rulemaking file disapproved by OAL.</p> <p>February 19, 2009 – Task Force meeting held to discuss OAL's disapproval</p> <p>March 2009 – Extension granted by OAL.</p> <p>June 2, 2009 – Resubmittal submitted to DCA for Director review.</p> <p>June 8, 2009 – Resubmittal submitted to OAL for approval.</p> <p>July 17, 2009 – Approved by OAL</p>
1999.5	<p>Include an introductory statement to clarify the purpose of the regulation. Clarify that certain subsections pertain only to Branch 3 companies.</p>	



# California

## LEGISLATIVE INFORMATION

### **SB-328 Landlords: notice of pesticide use.** (2015-2016)

#### **Senate Bill No. 328**

#### **CHAPTER 278**

An act to add Section 1940.8.5 to the Civil Code, relating to rental property.

[ Approved by Governor September 08, 2015. Filed with Secretary of State September 08, 2015. ]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 328, Hueso. Landlords: notice of pesticide use.

Existing law regulates the hiring of dwelling units, as defined. Existing law requires a landlord of a residential dwelling unit to provide a new tenant with certain disclosures, including, but not limited to, specified notice from a registered structural pest control company regarding the use of pesticides at the dwelling unit if a contract for periodic pest control service has been executed.

This bill, with certain exceptions, would require the landlord or the landlord's authorized agent, as defined, to provide a tenant, and, if certain conditions are met, any tenant of adjacent units, with specified notice of the use of pesticides at the dwelling unit if the landlord or authorized agent applies any pesticide without a licensed pest control operator.

The bill, with certain exceptions, would require the posting of a similar notice at least 24 hours prior to application of any pesticide to a common area without a licensed pest control operator, unless the pest poses an immediate threat to health and safety, in which case the notice would be required to be posted as soon as practicable, but not later than one hour after the pesticide is applied. For

routine application pursuant to a schedule in common areas, the bill would require a notification to existing tenants prior to the initial routine application and to new tenants at the time that the lease agreement is entered into.

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

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

**SECTION 1.** The Legislature finds and declares all of the following:

(a) Existing law requires licensed pest control operators to provide to tenants written notification that includes the pest to be targeted, the pesticide to be used, the frequency of its use, and a health and safety statement prior to a pesticide application.

(b) Landlords or authorized agents may apply pesticides without using the services of a licensed pest control operator. There is no requirement for landlords or authorized agents to notify tenants when pesticides are applied to their units or common areas.

(c) It is therefore the intent of this bill to ensure that when pesticides are about to be applied to rental property by the landlord or an authorized agent, rather than by a licensed pest control operator, potentially affected tenants are provided with substantially the same written notification that they would have received under existing law had the pesticides been applied by a pest control operator.

**SEC. 2.** Section 1940.8.5 is added to the Civil Code, to read:

**1940.8.5.** (a) For purposes of this section, the following terms have the following meanings:

(1) "Adjacent dwelling unit" means a dwelling unit that is directly beside, above, or below a particular dwelling unit.

(2) "Authorized agent" means an individual, organization, or other entity that has entered into an agreement with a landlord to act on the landlord's behalf in relation to the management of a residential rental property.

(3) "Broadcast application" means spreading pesticide over an area greater than two square feet.

(4) "Electronic delivery" means delivery of a document by electronic means to the electronic address at or through which a tenant, landlord, or authorized agent has authorized electronic delivery.

(5) "Landlord" means an owner of residential rental property.



(6) "Pest" means a living organism that causes damage to property or economic loss, or transmits or produces diseases.

(7) "Pesticide" means any substance, or mixture of substances, that is intended to be used for controlling, destroying, repelling, or mitigating any pest or organism, excluding antimicrobial pesticides as defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

(8) "Licensed pest control operator" means anyone licensed by the state to apply pesticides.

(b) (1) A landlord or authorized agent that applies any pesticide to a dwelling unit without a licensed pest control operator shall provide a tenant of that dwelling unit and, if making broadcast applications, or using total release foggers or aerosol sprays, any tenant in an adjacent dwelling unit that could reasonably be impacted by the pesticide use with written notice that contains the following statements and information using words with common and everyday meaning:

(A) The pest or pests to be controlled.

(B) The name and brand of the pesticide product proposed to be used.

(C) "State law requires that you be given the following information:

CAUTION – PESTICIDES ARE TOXIC CHEMICALS. The California Department of Pesticide Regulation and the United States Environmental Protection Agency allow the unlicensed use of certain pesticides based on existing scientific evidence that 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 of a pesticide, a person experiences symptoms similar to common seasonal illness comparable to influenza, the person should contact a physician, appropriate licensed health care provider, or the California Poison Control System (1-800-222-1222).

For further information, contact any of the following: for Health Questions – the County Health Department (telephone number) and for Regulatory Information – the Department of Pesticide Regulation (916-324-4100)."

(D) The approximate date, time, and frequency with which the pesticide will be applied.

(E) The following notification:

"The approximate date, time, and frequency of this pesticide application is subject to change."

(2) At least 24 hours prior to application of the pesticide to the dwelling unit, the landlord or authorized agent shall provide the notice to the tenant of the dwelling unit, as well as any tenants in adjacent units that are required to be notified pursuant to paragraph (1), in at least one of the following ways:

(A) First-class mail.

(B) Personal delivery to the tenant, someone of suitable age and discretion at the premises, or under the usual entry door of the premises.

(C) Electronic delivery, if an electronic mailing address has been provided by the tenant.

(D) Posting a written notice in a conspicuous place at the unit entry in a manner in which a reasonable person would discover the notice.

(3) (A) Upon receipt of written notification, the tenant may agree in writing, or if notification was electronically delivered, the tenant may agree through electronic delivery, to allow the landlord or authorized agent to apply a pesticide immediately or at an agreed upon time.

(B) (i) Prior to receipt of written notification, the tenant and the landlord or authorized agent may agree orally to an immediate pesticide application if a tenant requests that the pesticide be applied before 24-hour advance notice can be given. The oral agreement shall include the name and brand of the pesticide product proposed to be used.

(ii) With respect to a tenant entering into an oral agreement for immediate pesticide application, the landlord or authorized agent, no later than the time of pesticide application, shall leave the written notice specified in paragraph (1) in a conspicuous place in the dwelling unit, or at the entrance of the unit in a manner in which a reasonable person would discover the notice.

(iii) If any tenants in adjacent dwelling units are also required to be notified pursuant to this subdivision, the landlord or authorized agent shall provide those tenants with this notice as soon as practicable after the oral agreement is made authorizing immediate pesticide application, but in no case later than commencement of application of the pesticide.

(4) (A) This subdivision shall not be construed to require an association, as defined in Section 4080, to provide notice of pesticide use in a separate interest, as defined in Section 4185, within a common interest development, as defined in Section 4100.

(B) Notwithstanding subparagraph (A), an association, as defined in Section 4080, that has taken title to a separate interest, as defined in Section 4185, shall provide notification to tenants as specified in this subdivision.

(c) (1) A landlord or authorized agent that applies any pesticide to a common

area without a licensed pest control operator, excluding routine pesticide applications described in subdivision (d), shall post written notice in a conspicuous place in the common area in which a pesticide is to be applied that contains the following statements and information using words with common and everyday meaning:

- (A) The pest or pests to be controlled.
- (B) The name and brand of the pesticide product proposed to be used.
- (C) "State law requires that you be given the following information:

CAUTION – PESTICIDES ARE TOXIC CHEMICALS. The California Department of Pesticide Regulation and the United States Environmental Protection Agency allow the unlicensed use of certain pesticides based on existing scientific evidence that 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 of a pesticide, a person experiences symptoms similar to common seasonal illness comparable to influenza, the person should contact a physician, appropriate licensed health care provider, or the California Poison Control System (1-800-222-1222).

For further information, contact any of the following: for Health Questions – the County Health Department (telephone number) and for Regulatory Information – the Department of Pesticide Regulation (916-324-4100)."

- (D) The approximate date, time, and frequency with which the pesticide will be applied.

(2) (A) The notice shall be posted before a pesticide application in a common area and shall remain posted for at least 24 hours after the pesticide is applied.

(B) Landlords and their authorized agents are not liable for any notice removed from a common area without the knowledge or consent of the landlord or authorized agent.

(C) If the pest poses an immediate threat to health and safety, thereby making compliance with notification prior to the pesticide application required in subparagraph (A) unreasonable, a landlord or authorized agent shall post the notification as soon as practicable, but not later than one hour after the pesticide is applied.

(3) If a common area lacks a suitable place to post a notice, then the landlord shall provide the notice to each dwelling unit in at least one of the following ways:

(A) First-class mail.

(B) Personal delivery to the tenant, someone of suitable age and discretion at the premises, or under the usual entry door of the premises.

(C) Electronic delivery, if an electronic mailing address has been provided by the tenant.

(D) Posting a written notice in a conspicuous place at the unit entry in a manner in which a reasonable person would discover the notice.

(4) This subdivision shall not be construed to require any landlord or authorized agent, or an association, as defined in Section 4080, to provide notice of pesticide use in common areas within a common interest development, as defined in Section 4100.

(d) (1) A landlord or authorized agent that routinely applies pesticide in a common area on a set schedule without a licensed pest control operator shall provide a tenant in each dwelling unit with written notice that contains the following statements and information using words with common and everyday meaning:

(A) The pest or pests to be controlled.

(B) The name and brand of the pesticide product proposed to be used.

(C) "State law requires that you be given the following information:

CAUTION – PESTICIDES ARE TOXIC CHEMICALS. The California Department of Pesticide Regulation and the United States Environmental Protection Agency allow the unlicensed use of certain pesticides based on existing scientific evidence that 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 of a pesticide, a person experiences symptoms similar to common seasonal illness comparable to influenza, the person should contact a physician, appropriate licensed health care provider, or the California Poison Control System (1-800-222-1222).

For further information, contact any of the following: for Health Questions – the County Health Department (telephone number) and for Regulatory Information – the Department of Pesticide Regulation (916-324-4100)."

(D) The schedule pursuant to which the pesticide will be routinely applied.

(2) (A) The landlord or authorized agent shall provide the notice to both of the

following:

(i) Existing tenants prior to the initial pesticide application.

(ii) Each new tenant prior to entering into a lease agreement.

(B) The landlord or authorized agent shall provide the notice to the tenant in at least one of the following ways:

(i) First-class mail.

(ii) Personal delivery to the tenant, someone of suitable age and discretion at the premises, or under the usual entry door of the premises.

(iii) Electronic delivery, if an electronic mailing address has been provided by the tenant.

(iv) Posting a written notice in a conspicuous place at the unit entry in a manner in which a reasonable person would discover the notice.

(C) If the pesticide to be used is changed, a landlord or authorized agent shall provide a new notice pursuant to paragraph (1).

(D) This subdivision shall not be construed to require any landlord or authorized agent, or an association, as defined in Section 4080, to provide notice of pesticide use in common areas within a common interest development, as defined in Section 4100.

(e) Nothing in this section abrogates the responsibility of a registered structural pest control company to abide by the notification requirements of Section 8538 of the Business and Professions Code.

(f) Nothing in this section authorizes a landlord or authorized agent to enter a tenant's dwelling unit in violation of Section 1954.

(g) If a tenant is provided notice in compliance with this section, a landlord or authorized agent is not required to provide additional information, and the information shall be deemed adequate to inform the tenant regarding the application of pesticides.





# California

## LEGISLATIVE INFORMATION

**SB-799 School finance: school districts: annual budgets: reserve balance.** (2015-2016)

AMENDED IN ASSEMBLY AUGUST 20, 2015

AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN SENATE APRIL 20, 2015

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**SENATE BILL**

**No. 799**

**Introduced by ~~Committee on Business, Professions and Economic Development (Senators Hill (Chair), Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, and Wieckowski) Senators Hill and Glazer~~**

**(Coauthors: Senators Allen, Block, Galgiani, Pavley, Roth, and Wolk)**

**(Coauthors: Assembly Members Bonilla, Brown, Calderon, Cooper, Gray, Irwin, Olsen, Salas, and Ting)**

**March 18, 2015**

~~An act to amend Sections 5055, 5070.1, 5087, 6735, 7083, 7200, 7200.5, 7200.7, 7201, 7202, 7208, 7209, 7209.5, 7210.5, 7211.1, 7211.2, 7215, 7215.5, 7217, 7685, 7818, 8508, 8513, 8552, 8611, and 17913 of, and to repeal Section 8516.5 of, the Business and Professions Code, and to amend Section 13995.40 of the Government Code, relating to business and professions. An act to amend Sections 42127 and 42127.01 of the~~







*California*  
LEGISLATIVE INFORMATION

**AB-181 Business and professions. (2015-2016)**

ENROLLED SEPTEMBER 14, 2015

PASSED IN SENATE SEPTEMBER 09, 2015

PASSED IN ASSEMBLY SEPTEMBER 10, 2015

AMENDED IN SENATE SEPTEMBER 04, 2015

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 181**

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

**January 26, 2015**

An act to amend Sections 5055, 5070.1, 5087, 6735, 7083, 7200, 7200.5, 7200.7, 7201, 7202, 7208, 7209, 7209.5, 7210.5, 7211.1, 7211.2, 7215, 7215.5, 7217, 7303, 7303.2, 7313, 7395.1, 7401, 7404, 7407, 7685, 7818, 8508, 8513, 8552, 8611, and 17913 of, to add Sections 7314.3 and 7402.5 to, and to repeal Sections 7304, 7308, and 8516.5 of, the Business and Professions Code, and to amend Section 13995.40 of the Government Code, relating to business and professions.

issuance of personal service permits. The bill would also make technical, nonsubstantive changes to these provisions.

(5) Under the Funeral Directors and Embalmers Law, the Cemetery and Funeral Bureau regulates licensed funeral establishments and requires that they be operated by a licensed funeral director who is required to provide written information regarding funeral goods and services and prices to consumers. Existing law requires a funeral establishment that maintains an Internet Web site to also post that information on its Internet Web site provided by a link from the homepage. A violation of these provisions is a misdemeanor.

This bill would require that the funeral establishment's Internet Web site contain specified key words.

(6) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board. The California Constitution provides that laborers of every class who have worked upon or have furnished material for a property have a lien upon that property for the value of the labor done and material furnished. The California Constitution requires the Legislature to provide, by law, for the speedy and efficient enforcement of those liens. Existing law requires specified registered companies to provide notice regarding possible liens, as specified, to the owner of property prior to entering into a contract to provide work on that property. A violation of these provisions is a misdemeanor.

This bill would extend the notice requirements to all registered companies.

Existing law requires a structural pest control operator to provide a report detailing the results of an inspection for wood destroying pests or organisms prior to commencing work on a contract or expressing an opinion regarding the presence or absence of wood destroying pests or organisms, to the Structural Pest Control Board, within the Department of Consumer Affairs, as specified. Existing law requires that the pest control operator deliver a copy of the report to the person requesting inspection, or designated agent, within 10 business days of the inspection. Existing law requires a pest control operator to deliver a copy of that report to the owner or the owner's agent within 10 working days of an inspection.

This bill would remove the requirement that the pest control operator provide the owner of the property or the owner's agent with a copy of the report, unless the owner was the person who requested the inspection.

(7) Existing law creates the California Travel and Tourism Commission and provides for the membership and meetings of the commission.

This bill would specify that all meetings of the commission take place in California and would authorize commissioners to attend meetings of the commission by conference telephone or other technology.

the deceased, and that is in the possession of the funeral establishment.

(3) The funeral director shall also provide a written statement or list that, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by any individual. Prices of caskets and other identifying features such as thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, shall be provided over the telephone, if requested.

(b) (1) Each licensed funeral establishment that maintains an Internet Web site shall post on its Internet Web site the list of funeral goods and services that are required to be included in the establishment's general price list, pursuant to federal rule, and a statement that the general price list is available upon request.

(2) Information posted pursuant to paragraph (1) shall be provided by a link from the homepage of the Internet Web site with a word or combination of words, including, but not limited to, "goods," "merchandise," "products," or "services."

(3) An establishment that posts on its Internet Web site home page the words "price information" or a similar phrase that includes the word "price," with a link that leads to the establishment's general price list, need not comply with paragraphs (1) or (2).

(4) Nothing in this subdivision shall be construed to affect an establishment's obligations under federal or state law effective prior to January 1, 2013.

(5) This subdivision shall become operative on January 1, 2013.

**SEC. 32.** Section 7818 of the Business and Professions Code is amended to read:

**7818.** The board, pursuant to the provisions contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt, amend or repeal rules and regulations to carry out the provisions of this chapter.

**SEC. 33.** Section 8508 of the Business and Professions Code is amended to read:

**8508.** "Household" means any structure and its contents that are used for persons and their convenience.

**SEC. 34.** Section 8513 of the Business and Professions Code is amended to read:



**8513.** (a) The board shall prescribe a form entitled "Notice to Owner" that shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics lien laws and the rights and responsibilities of an owner of property and a registered pest control company thereunder. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.

(b) No company that is required to be registered under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.

(c) Each company registered under this chapter that acts as a subcontractor for another company registered under this chapter shall, within 20 days of commencement of any work for which a company registration is required, give the preliminary notice in accordance with Chapter 2 (commencing with Section 8200) of Title 2 of Part 6 of Division 4 of the Civil Code, to the owner, his or her agent, or the payer.

(d) Each company registered under this chapter that acts as a prime contractor for work for which a company registration is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics lien by any subcontractor entitled to enforce a mechanics lien pursuant to Section 8410 of the Civil Code.

(e) Each company registered under this chapter that subcontracts to another company registered under this chapter work for which a company registration is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.

(f) A violation of the provisions of this section is a ground for disciplinary action.

**SEC. 35.** Section 8516.5 of the Business and Professions Code is repealed.

**SEC. 36.** Section 8552 of the Business and Professions Code is amended to read:

**8552.** It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a registered company, except as otherwise provided in this chapter.

**SEC. 37.** Section 8611 of the Business and Professions Code is amended to read:

**8611.** (a) Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative in the branch or

branches of business being conducted and his or her license shall be prominently displayed in the branch office.

(b) If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

**SEC. 38.** Section 17913 of the Business and Professions Code is amended to read:

**17913.** (a) The fictitious business name statement shall contain all of the information required by this subdivision and shall be substantially in the following form:

FICTITIOUS BUSINESS NAME STATEMENT

The following person (persons) is (are) doing business as

\*

at \*\* :

\*\*\*

This business is conducted by \*\*\*\*

The registrant commenced to transact business under the fictitious business name or names listed above on

\*\*\*\*\*

I declare that all  
information in this  
statement is true  
and correct. (A  
registrant who  
declares as true  
any material  
matter pursuant to  
Section 17913 of  
the Business and  
Professions Code  
that the registrant  
knows to be false  
is guilty of a  
misdemeanor  
punishable by a  
fine not to exceed





*California*  
LEGISLATIVE INFORMATION

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

AMENDED IN SENATE JULY 15, 2015

AMENDED IN ASSEMBLY MAY 14, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE— 2015-2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 551**

**Introduced by Assembly Member Nazarian**

**February 23, 2015**

An act to amend Section 1942.5 of, to amend and renumber Section 1954.1 of, and to add Chapter 2.5 (commencing with Section 1954.1) of Title 5 of Part 4 of Division 3 of, the Civil Code, relating to tenancy.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 551, as amended, Nazarian. Rental property: bed bugs.

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

pest control company, as specified, if a contract for periodic pest control service has been executed.

This bill would prescribe the duties of landlords and tenants with regard to the treatment and control of bed bugs. The bill would require a landlord to provide a prospective tenant, on and after July 1, 2016, and to all other tenants by January 1, 2017, information about bed bugs, as specified. The bill would prohibit a tenant from ~~knowingly~~ bringing items onto a property *that the tenant knows or reasonably should know are infested with bed bugs* and would require a tenant who finds a bed bug infestation to notify his or her landlord within 7 *calendar* days if he or she finds or reasonably suspects a bed bug infestation. The bill would require a landlord to retain services of a pest control operator, as defined, within 5 *business* days of notification, and would prescribe requirements for entries into dwelling units for purposes of inspection. If an infestation is confirmed, the bill would require that the landlord provide notice of the findings within ~~48 hours~~ 2 *business days* and that the landlord contract with a pest control operator to prepare and implement a bed bug treatment program within a reasonable time, as specified. The bill would require a landlord to provide affected tenants with specified information in connection with the treatment plan and would require tenants to fulfill responsibilities for unit preparation before a scheduled treatment, be responsible for the management of their belongings, and to vacate their units. The bill would require a landlord, after a bed bug infestation is confirmed, to prepare a written bed bug management plan, which would be available to tenants. The bill would prescribe requirements for the disposal of items infested by bed bugs.

The bill would prohibit a landlord from renting or leasing a vacant dwelling unit that the landlord knows, or reasonably should know, has a bed bug infestation. The bill would provide that an eviction proceeding to enforce tenant responsibilities is not retaliation and that a property for which a landlord has notice of an infestation and follows required procedures is not, with respect to bed bugs, to be considered substandard or untenable. The bill would specify that a landlord or tenant may sue for injunctive relief for violations of its provisions. The bill would prohibit a landlord from being held liable for delays in bed bug treatment and control that are outside his or her control. The bill would state the intent of the Legislature to occupy the field with regard to this topic and would prohibit cities, counties, and other local entities from enacting a local law relating to this issue, except as specified.

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

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

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



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

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, has provided notice pursuant to Section 1954.14, or has made an oral complaint to the lessor regarding tenantability.

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

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

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

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

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

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

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

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

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

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

(1) The actual damages sustained by the lessee.

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

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

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

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

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

**SEC. 3.** Chapter 2.5 (commencing with Section 1954.1) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

**CHAPTER 2.5. Bed Bug Infestations**

**1954.1.** The Legislature finds and declares:

(a) Controlling bed bugs is uniquely challenging, as bed bug resistance to existing

insecticidal control measures is significant. Cooperation among landlords, tenants, and pest control operators is required for successful control.

(b) Tenants, property owners, and pest control operators have distinct rights and responsibilities regarding bed bug infestations.

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

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

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

(f) Specific, enforceable duties of tenants and landlords are necessary so that the failure of a tenant or landlord to cooperate fully does not prevent effective investigation, treatment, and monitoring of all infested and surrounding units.

**1954.11.** For the purposes of this chapter:

(a) "Bed bug management plan" means a written plan prepared by a pest control operator for a property. The plan will outline the responsibilities of the landlord *and tenants* and shall be consistent with NPMA best practices and tailored to the conditions at the property. The plan shall include, but is not limited to, the following:

(1) Education of tenants to reduce the risk of introduction of bed bugs to the property and to encourage reporting. Education methods and frequency shall be based on resources of the landlord.

(2) Housekeeping and building maintenance procedures to help prevent bed bug harborage, including recommendations from a pest control operator about correcting bed bug hiding places and entry points, for example by sealing cracks and crevices in walls, ceilings, and floors, and fixing loose moldings and peeling wallpaper.

(3) The landlord's process for responding to complaints and a brief statement of the requirements of this chapter.

(4) Written documentation of any bed bug treatment program.

(5) Use of monitoring devices on a proactive basis, routine monitoring inspections by trained employees or licensed pest control operators, if appropriate, as

determined by the pest control operator and based upon the resources of the landlord.

(6) A complaint log that documents compliance with this chapter.

(b) "Bed bug treatment program" means a program, based on NPMA best practices, for treating an infestation to remove or kill visible and accessible bed bugs and their eggs, either immediately or through residual effects. The program shall be structured to continue until the infestation is controlled.

(c) "Complaint log" means part of a bed bug management plan that tracks a landlord's ongoing responses to each bed bug report *over the preceding two years*. The complaint log shall include, but is not limited to, ~~records pertaining to verification inspection and inspection~~ *inspections and inspections* of adjacent units, results of inspections, records of notices provided to tenants, unit preparation inspections, treatment type, locations and dates, and followup inspections.

(d) "Inspection" means an investigation of the premises, using NPMA best practices to confirm or rule out a bed bug infestation, to identify all infested areas to determine treatment tactics, or to verify that an infestation has been eliminated.

(e) "NPMA best practices" means best management practices for bed bugs issued by the National Pest Management Association in effect on January 1, ~~2015~~. *2016*. "NPMA best practices" *does not include practices or actions that conflict with federal or state law*.

(f) "Pest control operator" means an individual with a Branch 2 license from the Structural Pest Control Board.

(g) "Pretreatment checklist" means unit preparation requirements tailored to the treatment method, consistent with NPMA best practices, including, but not limited to, easy-to-understand instructions, pictures, and diagrams, prepared by the pest control operator and provided to tenants by the landlord or pest control operator. The checklist shall include instructions for how to treat tenant clothing, personal furnishings, and other belongings, if treatment is required, and shall provide contact information for the pest control operator to answer questions prior to treatment.

**1954.12.** On and after July 1, 2016, prior to creating a new tenancy for a dwelling unit, a landlord shall provide a written notice to the prospective tenant as provided in this section. This notice shall be provided to all other tenants by January 1, 2017. The notice shall be in at least 10-point type and shall include, but is not limited to, the following:

(a) General information about bed bug identification, behavior and biology, the importance of cooperation for prevention and treatment, and the importance of

and for prompt written reporting of suspected infestations to the landlord. The information shall be in substantially the following form:

#### Information about Bed Bugs

**Bed bug Appearance:** Adult bed bugs have flat bodies about 1/4 of an inch in length. They are copper colored and have six legs. Young bed bugs are nearly colorless and are very small, about 1/16 of an inch in length. Bed bugs do not fly. They either crawl or are carried from place to place. When a bed bug feeds, its body swells and becomes bright red, making it appear to be a different insect. Bed bugs can be hard to find and identify because they are tiny and try to stay hidden.

**Life Cycle and Reproduction:** The typical lifespan of a bed bug is 10 months. They can survive for months without feeding. Female bed bugs lay one to five eggs per day. Bed bugs grow to full adulthood in about 21 days.

**Bed bug Bites:** Because bed bugs usually feed at night when people are sleeping, most people do not realize they were bitten. ~~Bed bugs do not transmit disease but are a nuisance.~~ A person's reaction to insect bites is an immune response and so varies from person to person. Sometimes the red welts caused by the bites will not be apparent until many days after a person was bitten. — — — — —

Common signs of bed bugs and symptoms of a possible infestation:

- Small red to reddish brown fecal spots on mattresses, upholstery, or walls.
- Molted bed bug skins, white, sticky eggs, or empty eggshells.
- Very heavily infested areas may have a characteristically sweet odor.
- Red, itchy bite marks, especially on the legs, arms, and other body parts exposed while sleeping.

More information: See the ~~websites~~ *web sites* of the United States Environmental Protection Agency, *California Department of Public Health*, California State Structural Pest Control Board, and the National Pest Management Association.

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

(c) ~~Whether~~ *If applicable, a statement that* the property has a bed bug management plan.

(d) ~~A copy of this chapter.~~

**1954.13.** A tenant shall not knowingly bring onto a property personal furnishings or belongings that *the tenant knows or reasonably should know* are infested with

bed bugs.

**1954.14.** (a) Within seven *calendar* days after a tenant finds or reasonably suspects a bed bug infestation at a property, the tenant shall notify the landlord in writing of that fact and the evidence of infestation. Evidence of infestation includes, but is not limited to, any recurring or unexplained bites, stings, irritation, or sores of the skin that the tenant knows or reasonably suspects are caused by bed bugs.

(b) Within five business days after a tenant or a public agency notifies a landlord ~~of an infestation or a suspected infestation~~, the landlord shall retain the services of a pest control operator to verify the ~~tenant's complaint~~ *suspected infestation* and to conduct an inspection, if determined to be necessary by the pest control operator.

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

(d) If a pest control operator's inspection confirms that a bed bug infestation exists:

(1) The landlord shall notify all tenants of units identified for treatment by the pest control operator of the findings of infestation. The notification shall be in writing and made within ~~48 hours~~ *two business days* of receipt of the pest control operator's findings. For confirmed infestations in common areas, all tenants shall be provided notice of the pest control operator's findings.

(2) If further inspections of the affected units or surrounding units are necessary as determined by the pest control operator, based on the NPMA best practices, subsequent notices shall include information about future inspections, *unless that information was disclosed in a prior notice*. Each ~~subsequent~~ entry shall require ~~a separate~~ notice conforming to Section 1954.

**1954.15.** (a) After an infestation is confirmed as described in Section 1954.14, the landlord shall contract with a pest control operator to prepare and implement a bed bug treatment program to begin within a reasonable time. ~~For Beginning the treatment program within 10 calendar days after the infestation confirmation is confirmed~~ shall be presumed ~~as to be~~ a reasonable time.

(b) At least seven calendar days prior to treatment, the landlord shall provide to the affected tenants with the following:

(1) A cover sheet from the landlord, in at least 10-point type, disclosing:

(A) The date or dates of treatment, the deadline for tenant preparation of the unit, and the date, *approximate* hour, and length of time, if any, the tenant shall be *required to be* absent from the unit.

(B) A statement that the tenant may request assistance or an extension of time to prepare the unit, to the extent required by law, to reasonably accommodate a disability.

(C) A statement that a tenant not entitled to a reasonable accommodation under law may also request an extension of time to prepare the unit.

(2) A pretreatment checklist with information provided by the pest control operator, which shall be in accordance with NPMA best practices.

(c) The tenant shall fulfill his or her responsibilities for unit preparation before the scheduled treatment, as described in the pest control operator's pretreatment checklist. Tenants shall be responsible for the management of their belongings, including, but not limited to, clothing and personal furnishings.

(d) Tenants who are not able to fulfill their unit preparation responsibilities shall promptly notify the landlord. For a tenant not entitled to a reasonable accommodation under law who requests an extension of time to prepare the unit, the landlord shall extend the preparation time by three *business* days.

(e) If an extension of time is provided in order to reasonably accommodate a tenant required under law to receive a reasonable accommodation, or for other tenants as provided in subdivision (d), the landlord shall provide all affected tenants with a notice of the revised dates *and times* specified in subparagraph (A) of paragraph (1) of subdivision ~~(a)~~ (b), *as necessary*.

(f) A tenant shall cooperate in vacating his or her unit as notified for treatment purposes and shall not reenter the unit until directed by the pest control operator to do so.

(g) Inspection of unit preparation and bed bug treatment and posttreatment inspection and monitoring of all affected and surrounding units as recommended by the pest control operator are a necessary service for the purpose of Section 1954. In addition to the cover sheet and any revisions under subdivision (e), the landlord shall provide ~~separate~~ written notice of entry pursuant to Section 1954 to *affected tenants for all treatments and inspections*.

**1954.16.** ~~After~~ *No later than 30 calendar days after* a bed bug infestation is confirmed by a pest control operator, or by a code enforcement officer or a health officer under paragraph (12) of subdivision (a) of Section 17920.3 of the Health and Safety Code, a pest control operator and the landlord shall prepare a written bed bug management plan for the property. This plan shall be made available to

tenants upon request.

**1954.17.** It is unlawful for a landlord to rent or lease, or offer to rent or lease, any vacant dwelling unit that the landlord knows or should reasonably know has a current bed bug infestation.

**1954.18.** Service of a three-day notice and filing of an unlawful detainer action to enforce tenant responsibilities under this chapter shall not be considered unlawful retaliation under Section 1942.5.

**1954.19.** If a landlord has *received* notice of an infestation and ~~follows the procedures is in compliance with the requirements~~ of this chapter, the property shall not, with respect to bed bugs, be considered to be substandard as defined in Section 17920.3 of the Health and Safety Code, to be untenable as defined in Section 1941.1, or to be in breach of the implied warranty of habitability.

**1954.20.** A landlord or tenant, *when disposing of items personal property that they own or control, that is* infested with bed bugs, including, but not limited to, bedding, furniture, clothing, draperies, carpeting, or padding, shall securely seal the ~~material property~~ in a plastic bag that is all of the following:

- (a) Of a size as to readily contain the disposed material.
- (b) Labeled as being infested with bed bugs.
- (c) Furnished as needed to the tenant by the ~~property owner~~ *landowner* or pest control operator.

**1954.21.** In addition to any other remedies provided by law, a landlord or tenant may sue for injunctive or declaratory relief for violations of this chapter.

**1954.22.** A landlord shall not be liable for any damages due to delays in bed bug treatment and control that are outside the landlord's control.

**1954.23.** *Failure to comply with NPMA best practices shall not constitute a violation of this chapter if copies of the NPMA best practices are not available to the public free of charge.*

~~1954.23.~~ **1954.24.** (a) Except as provided in subdivision (b), to the end of providing a single, uniform approach to the treatment of bed bug infestations in residential tenancies in California, it is the intent of the Legislature to occupy the field with regard to this subject. Cities, counties, and other local entities are prohibited from enacting a local law on this subject.

(b) The comprehensive ordinances and regulations of the City and County of San Francisco regarding the treatment and control of bed bug infestations are deemed



to satisfy this chapter and are not preempted.



## MEMORANDUM

<b>DATE</b>	September 16, 2015
<b>TO</b>	Board Members
<b>FROM</b>	David Skelton, Administrative Analyst Structural Pest Control Board
<b>SUBJECT</b>	<b>AGENDA ITEM XIV – CE IPM REGULATORY LANGUAGE STATUS UPDATE</b>

At the July 22 & 23, 2015 Meeting, the Board directed staff to prepare, and bring back for approval, regulatory language to implement the recommendations made by the CE IPM Review Committee.

During the process of developing draft language, questions arose that staff felt required further guidance from the Board.

Specifically, when the Board approved the new CE recommendations, it did so with the direction that the requirement for the Application & Intervention category be made branch specific. However, for Field Representatives and Operators whose license is held in multiple branches, no direction was given on how to divide the hour requirement in the Application & Intervention category.

For example, an Operator who holds a license in all 3 branches would have a total Application & Intervention requirement of 11 hours. In order for those hours to be branch specific, they would need to be divided 3 ways.

If dividing the hours equally is the solution to that issue, a consistency question arises.

By dividing the hours equally we would be requiring 3.6 hours of branch 1 Application & Intervention for an Operator who is licensed in all 3 branches while requiring 13 hours of branch 1 Application & Intervention for an Operator licensed only in branch 1.

For these reasons, staff requests further guidance on how to proceed in the development of regulatory language.



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

**RECOMMENDATION #1**

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

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

**LAWS & REGULATIONS**

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

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

**INTEGRATED PEST MANAGEMENT**

**IPM here is defined as:**

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

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

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

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

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

## **APPLICATION & INTERVENTION**

### **Application and Intervention and defined as:**

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

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

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

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

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

## **RECOMMENDATION #2**

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

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

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

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

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

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

### **RECOMMENDATION #3**

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

### **RECOMMENDATION #4**

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

### **RECOMMENDATION #5**

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

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

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

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

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

- Human health impacts associated with pesticides

### **Justifications for Changes to Applicator CE Requirements**

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

### **RECOMMENDATION #6**

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

### **RECOMMENDATION #7**

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

### **RECOMMENDATION #8**

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

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

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

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

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





	L & R	A & I	IPM	General	Total
<b>Branch 1 &amp; 2 Field Representative</b>					
Current Requirement	8	8	2	2	20
Proposed Requirement	3	9	8	N/A	20
<b>Branch 1 &amp; 2 Operator</b>					
Current Requirement	8	8	2	2	20
Proposed Requirement	3	9	8	N/A	20
<b>Branch 1 &amp; 3 Field Representative</b>					
Current Requirement	8	8	2	2	20
Proposed Requirement	3	9	8	N/A	20
<b>Branch 1 &amp; 3 Operator</b>					
Current Requirement	8	8	2	2	20
Proposed Requirement	3	9	8	N/A	20



# California

## LEGISLATIVE INFORMATION

### AB-1545 State of California Housing Agency Act. (2015-2016)

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

## ASSEMBLY BILL

**No. 1545**

**Introduced by Assembly Member Irwin**

**August 20, 2015**

An act to amend Sections 100, 101, 7000.5, 7011, 7015, 8520, 8522, 10004, 10005, 10050, 11301, 11302, 11310, 11313, 19404, 23050, and 23075 of, and to repeal and add Section 8520.2 of, the Business and Professions Code, to amend Sections 300 and 50003 of, to add Sections 17002.1 and 22005.5 to, and to add Chapter 11 (commencing with Section 900) to Division 1 of, the Financial Code, to amend Sections 8870.1, 8870.2, 11546.1, 11550, 12800, 12804, 12804.5, 12855, 12856, 12895, 12901, and 12944 of, and to add Section 12815 to, the Government Code, to amend Sections 50400, 50407.5, 50901, and 50913 of the Health and Safety Code, and to amend Section 12640.02 of, and to add Section 12340.12 to, the Insurance Code, relating to housing.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as introduced, Irwin. State of California Housing Agency Act.

(1) Existing law establishes various agencies within the executive branch of state

government, including the Business, Consumer Services, and Housing Agency. Under existing law, the Business, Consumer Services, and Housing Agency is comprised of the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission. Existing law establishes, within the Department of Housing and Community Development, the California Housing Finance Agency which is administered by a board of 13 voting members, including the Secretary of Business, Consumer Services, and Housing. Under existing law, the Department of Consumer Affairs includes, among other entities, the Contractors' State License Board, the Bureau of Real Estate, and the Structural Pest Control Board.

This bill would establish in state government the Housing Agency, comprised of the Department of Housing and Community Development; the Bureau of Real Estate, which this bill would redesignate as the Department of Real Estate; the Contractors' State License Board; the Structural Pest Control Board; and the Department of Real Estate Finance, which this bill would also establish. The bill would redesignate the Business, Consumer Services, and Housing Agency as the Business and Consumer Services Agency, transfer certain duties of that agency to the Housing Agency, and make other conforming changes.

(2) Existing law establishes in state government the Bureau of Real Estate, headed by a Real Estate Commissioner appointed by the Governor. Existing law requires the Real Estate Commissioner to enforce, among other laws, the Real Estate Law, which provides for the licensure of real estate brokers and salespersons.

This bill would establish the Department of Real Estate Finance, headed by a Director of Real Estate Finance appointed by the Governor. The bill would require the director to execute the Real Estate Appraiser's Licensing and Certification Law, the Escrow Law, provisions of the California Finance Lenders Law as they pertain to mortgage loan origination services and housing purchase and refinance lending activities, the California Residential Mortgage Lending Act, specified provisions pertaining to title and mortgage insurance, and laws regulating business activities as those laws pertain to the activities of home warranty companies. The bill would make various conforming changes to these laws.

(3) This bill would provide that its provisions shall be known, and may be cited, as the State of California Housing Agency Act. The bill would make various findings and declarations.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS

**SEC. 6.** Section 7015 of the Business and Professions Code is amended to read:

**7015.** The board shall adopt a seal for its own use. The seal shall have the words "Contractors' State License Board, State of California, ~~Department of Consumer Affairs,~~ *Housing Agency,*" and the care and custody thereof shall be in the hands of the registrar.

**SEC. 7.** Section 8520 of the Business and Professions Code is amended to read:

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

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

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

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

**SEC. 8.** Section 8520.2 of the Business and Professions Code is repealed.

~~8520.2.(a)The Structural Pest Control Board is hereby transferred from the jurisdiction of the Department of Pesticide Regulation and placed under the jurisdiction of the Department of Consumer Affairs.~~

~~(b)The registrar of the board under the jurisdiction of the Department of Pesticide Regulation shall remain as the registrar of the board under the jurisdiction of the Department of Consumer Affairs.~~

~~(c)The members appointed to the board while under the jurisdiction of the Department of Pesticide Regulation shall remain as members of the board under the jurisdiction of the Department of Consumer Affairs.~~

~~(d)All employees of the board under the jurisdiction of the Department of Pesticide Regulation are hereby transferred to the board under the jurisdiction of the Department of Consumer Affairs.~~

~~(e)The duties, powers, purposes, responsibilities, and jurisdictions of the board under the jurisdiction of the Department of Pesticide Regulation shall remain with the board under the jurisdiction of the Department of Consumer Affairs.~~

~~(f)For the performance of the duties and the exercise of the powers vested in the~~



~~board under this chapter, the board shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the board formerly within the jurisdiction of the Department of Pesticide Regulation.~~

~~(g) Any reference to the board in this chapter or in any other provision of law or regulation shall be construed as a reference to the board under the jurisdiction of the Department of Consumer Affairs.~~

**SEC. 9.** Section 8520.2 is added to the Business and Professions Code, to read:

**8520.2.** (a) The Structural Pest Control Board is hereby transferred from the jurisdiction of the Department of Consumer Affairs and placed under the jurisdiction of the Housing Agency.

(b) The registrar of the board and the members appointed to the board under the jurisdiction of the Department of Consumer Affairs shall remain as the registrar and members of the board under the jurisdiction under the Housing Agency.

(c) All employees of the board under the jurisdiction of the Department of Consumer Affairs are hereby transferred to the board under the jurisdiction of the Housing Agency.

(d) The duties, powers, purposes, responsibilities, and jurisdictions of the board under the jurisdiction of the Department of Consumer Affairs shall remain with the board under the jurisdiction of the Housing Agency.

(e) For the performance of the duties and exercise of the powers vested in the board under this chapter, the board shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the board formerly within the jurisdiction of the Department of Consumer Affairs.

(f) Any reference to the board in this chapter or in any other law or regulation shall be construed as a reference to the board under the jurisdiction of the Housing Agency.

**SEC. 10.** Section 8522 of the Business and Professions Code is amended to read:

**8522.** (a) Members of the board shall be appointed for a term of four years, subject to removal by the appointing power at his or her pleasure.

(b) Vacancies shall be filled by the appointing power for the unexpired term.

(c) Each member shall hold office until the appointment of his or her successor not to exceed one year from the expiration of the term for which he or she was appointed. No person shall serve as a member of the board for more than two consecutive terms.

(d) Each appointment shall be for a four-year term expiring four years after either the date of the appointment or the date a previous term expired.

(e) From the nominations received pursuant to subdivision (f), the Governor shall appoint two of the public members and the three licensed members qualified as provided in Section 8521. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occur on or after January 1, 1983.

(f) (1) At least 60 days prior to the appointment by the Governor of a public member or licensed member to the board, the director shall solicit nominations to the board from interested parties by mailing them a notice and by posting a notice on the ~~department's~~ *Housing Agency's* Internet Web site. Interested parties include, but are not limited to, members or representatives from the structural pest control industry and organizations representing consumer, environmental, and real estate interests.

(2) All nominations shall be made in writing and shall include (A) the name and address of each nominee, (B) if an operator, his or her license number, and (C) the name, address, and affiliation, if any, of the nominator.

(3) The nominations shall be mailed to the director and shall be made available to the Governor and the director.

**SEC. 11.** Section 10004 of the Business and Professions Code is amended to read:

**10004.** ~~"Bureau"~~ *"Department"* means the ~~Bureau~~ *Department* of Real Estate in the ~~Department of Consumer Affairs.~~ *Housing Agency.*

**SEC. 12.** Section 10005 of the Business and Professions Code is amended to read:

**10005.** Whenever the terms "bureau," "division," "department," ~~"Department of Real Estate," "State~~ *"Bureau of Real Estate," "State Real Estate Division,"* or ~~"Real Estate Division"~~ are used in this division, they mean the ~~Bureau~~ *Department* of Real Estate.

Whenever the terms ~~"Department of Real Estate," "Bureau of Real Estate," "State Real Estate Division,"~~ or "Real Estate Division" are used in any other law, they mean the ~~Bureau~~ *Department* of Real Estate.

**SEC. 13.** Section 10050 of the Business and Professions Code is amended to read:

**10050.** (a) There is in the ~~Department of Consumer Affairs~~ *Housing Agency* a

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

A registered company may secure structural pest control work, submit bids, or otherwise contract for pest control work. A registered company may employ licensed field representatives and licensed operators to identify infestations or infections, make inspections, and represent the company in the securing of pest control work.

A registered company may hire or employ individuals who are not licensed under this chapter to perform work on contracts or service agreements as defined in this chapter covering Branches 1, 2, and 3 ~~wood-destroying organisms~~ only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job.

~~A registered company may hire and use individuals who are not licensed under this chapter on service contracts already established.~~ Nothing in this section shall be interpreted to mean that an unlicensed individual may perform work specifically requiring licensure as defined in this chapter.

#### **§ 1970.4. Pesticide Disclosure Requirement.**

(a) The primary contractor for fumigation shall have in his or her possession and shall provide to any subcontractor for fumigation a form (See Form 43M-48 (Rev. 5/07) at the end of this section) signed by the occupants or designated agent of a structure. The primary contractor for fumigation and the subcontractor for fumigation shall retain a copy of the occupants fumigation notice for a period of at least three years. In case of multiple-family dwellings, the owner, manager or designated agent of the building may obtain signatures and/or verify the notification of the occupants.

The form shall state the name of the pest to be controlled, the pesticide(s)/fumigant(s) proposed to be used, the active ingredient(s) and the health cautionary statement as required under section 8538 of the code. The form shall also state that a lethal gas (poison) will be used in the building on indicated dates and that it is unsafe to return to the building until a certification notice for reentry is posted by the licensed fumigator. The form shall also indicate that the occupant has received the prime contractor's information regarding the procedures for leaving the structure.

The properly signed form or a copy, written or electronic, thereof shall be in the possession of the licensed fumigator when the fumigant is released. Such form shall be attached to and become a permanent part of the fumigation log upon completion of the fumigation.

(b) Any death or serious injury relating to pesticide application or use, whether to a worker or member of the public, shall be reported to the nearest Structural Pest Control Board office immediately.

(c) Whenever a licensee employed by a branch 2 or branch 3 registered company applies a pesticide within, around or to any structure such person shall leave in a conspicuous location, or provide via electronic mail, if an electronic mailing address has been provided, a written, or electronic notice identifying the common, generic or chemical name of each pesticide applied and the registered company's name, address, and telephone number. In case of a multiple family structure, such notice may be given to the designated agent or the owner. Such pesticide identification notice may be a door hanger, invoice, billing statement or other similar written, or



electronic document which contains the registered company's name, address, and telephone number. Notices provided electronically must be transmitted no later than the conclusion of service.

(d) All pest control operators, field representatives, applicators and employees in all branches shall comply in every respect with the requirements of section 8538 of the code. Failure to comply with section 8538 of the code is a misdemeanor and shall constitute grounds for discipline.

(e) Where notification is required under section 8538 of the code, and the premises on which the work is to be performed is a multiple family dwelling consisting of more than 4 units, the owner/owner's agent shall receive notification and other notices shall be posted in heavily frequented, highly visible areas including, but not limited to, all mailboxes, manager's apartment, in all laundry rooms, and community rooms on all external pest control servicing. Complexes with fewer than 5 units will have each affected unit notified. Any pest control servicing done within a tenant's apartment requires that the tenant be notified according to section 8538 of the code.

(f) A registered company which applies any pesticide within, around or to any structure shall provide to any person, within 24 hours after request therefore, the common, generic or chemical name of each pesticide applied.

#### **§ 1990. Report Requirements Under Section 8516(b) 1-9, Inclusive.**

(a) All reports shall be completed as prescribed by the board. Copies ~~filed with~~ provided to the board shall be clear and legible. All reports must supply the information required by Section 8516 of the Code and the information regarding the pesticide or pesticides used as set forth in Section 8538 of the Code, and shall contain or describe the following:

(1) Structural pest control license number of the ~~person~~ Branch 3 licensee(s) making who performed the inspection.

(2) Signature of the Branch 3 licensee(s) who ~~made~~ performed the inspection.

(3) Infestations, infections or evidence thereof.

(4) Wood members found to be damaged by wood destroying pests or organisms.

(b) Conditions usually deemed likely to lead to infestation or infection include, but are not limited to:

(1) Faulty Grade Level. A faulty grade level exists when the top of any foundation is even with or below the adjacent ~~earth~~ surface. The existing ~~earth~~ surface level shall be considered grade.

(2) Inaccessible subareas or portions thereof and areas where there is less than 12 inches clear space between the bottom of the floor joists and the unimproved ground area.

(3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size that can be raked or larger. Stumps and wood imbedded in footings in earth contact shall be reported.

(4) Earth-wood contacts.

(5) Commonly controllable moisture conditions which would foster the growth of a fungus infection materially damaging to woodwork.

(c) When an infestation of carpenter ants or carpenter bees is found in a structure, control measures may be applied by a ~~registered companies holding a~~ Branch 2 or Branch 3 company registration certificate. If a Branch 3 licensee discovers an infestation or evidence of carpenter ant or carpenter bee infestation while performing an inspection pursuant to section 8516 of the

code, he or she shall report his or her findings and make recommendations for controlling the infestation.

(d) Even though the licensee may consider the following areas inaccessible for purposes of inspection, the licensee must state specifically which of these areas or any other areas were not inspected and why the inspection of these areas is not practical: furnished interiors; inaccessible attics or portions thereof; the interior of hollow walls; spaces between a floor or porch deck and the ceiling or soffit below; stall showers over finished ceilings; such structural segments as porte cocheres, enclosed bay windows, buttresses, and similar areas to which there is no access without defacing or tearing out lumber, masonry or finished work; built-in cabinet work; floors beneath coverings, areas where storage conditions or locks make inspection impracticable.

(e) Information regarding all accessible areas of the structure including but not limited to the substructure, foundation walls and footings, porches, patios and steps, stairways, air vents, abutments, stucco walls, columns, attached structures or other parts of a structure normally subject to attack by wood-destroying pests or organisms.

(f) The following language shall appear just prior to the first finding/recommendation on each separated report:

"This is a separated report which is defined as Section I/Section II conditions evident on the date of the inspection. Section I contains items where there is visible evidence of active infestation, infection or conditions that have resulted in or from infestation or infection. Section II items are conditions deemed likely to lead to infestation or infection but where no visible evidence of such was found. Further inspection items are defined as recommendations to inspect area(s) which during the original inspection did not allow the inspector access to complete the inspection and cannot be defined as Section I or Section II."

(g) Information must be reported regarding any ~~wooden~~ deck, ~~wooden~~ stairs or ~~wooden~~ landing in exterior exposure attached to or touching the structure being inspected. Portions of such structure that are not available for visual inspection must be designated as inaccessible.

#### **§ 1993.2. Termite Bait Station.**

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

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

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

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

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

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

#### **§ 1993.4 Termite Monitoring Devices**

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

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

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

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

#### **§ 1993.3. In-Ground Termite Bait Stations.**

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

# STRUCTURAL PEST CONTROL BOARD

## PROCEDURES

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

Revised 10/16/2014

## GENERAL

G-1.	Review of Procedures .....	1
G-2.	Travel.....	2
G-3.	Board Committees.....	3
G-4.	Election Of Officers.....	4
G-5.	Board Meeting Minutes .....	5
G-6.	Guidelines for Access to Public Records .....	6-8
G-7.	Review of Strategic Plan .....	9
G-8.	Duties of the President & Vice President .....	10-11
G-9.	Mail Votes.....	12

## LICENSING & EXAMINATIONS

L-1.	Unauthorized Assistance .....	13
L-2.	Postponement of Examination .....	14
L-3.	Fees .....	15
L-4.	Applicator Examination .....	16-17
L-5.	Incomplete Examination Applications.....	18
L-6.	Continuing Education Exemptions for Armed Forces Personnel .....	19

## ENFORCEMENT

E-1.	Complaint Process .....	20-21
E-2.	Inspection Process .....	22-25
E-3.	Administrative Hearing Process .....	26
E-4.	Stipulated Agreements.....	27-30
E-5.	Complaint/Disciplinary Disclosures.....	31-32
E-6.	Accepting A Complaint By A Registered Company Against A Licensed Employee .....	33
E-7.	Board Member Assistance In Complaint Investigation .....	34
E-8.	Board Review of Closed Complaints.....	35
E-9.	False Advertising/Unfair Competition .....	36
E-10.	Complaint Disclosure Policy.....	37-38
E-11.	Complaint Disclosure Procedures for Staff.....	39-40

## GENERAL

NO. G-1

SUBJECT: REVIEW OF PROCEDURES

PURPOSE: To assure procedures are current

POLICY

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

Reference: Section 108, Business and Professions Code

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

SUBJECT: TRAVEL

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

POLICY

Board Member

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

Advisory Committee Member

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

Reference: Sections 103 and 8526, Business and Professions Code

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



SUBJECT: BOARD COMMITTEES

PURPOSE: To establish guidelines for board committees

POLICY

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

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

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

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

History:     Adopted 2/19/88  
              Amended 11/6/92  
              Amended 10/22/93  
              Amended 1/10/03  
              Amended 7/18/03  
              Amended 1/15/05  
              Amended 10/16/14

SUBJECT: ELECTION OF OFFICERS

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

POLICY

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

Reference: Sections 8521 and 8522, Business and Professions Code

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

NO. G-5

SUBJECT: BOARD MEETING MINUTES

PURPOSE: To assure board meeting minutes are completed promptly.

POLICY

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

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

Reference: 8531.5

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

SUBJECT: GUIDELINES FOR ACCESS TO PUBLIC RECORDS

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

#### POLICY

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

1. Any person may review public records of the Board during weekdays and hours that the office is regularly open for business. Public records will be available for inspection only at the office or location where they are regularly and routinely maintained.
2. Requests for inspection or copying of public records:
  - a) should be addressed to, or directed to, the board.
3. The board will provide the following to assist a member of the public to make a focused and effective request that reasonably describes identifiable records or records to the extent it is reasonable under the circumstances:
  - a) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
  - b) Describe the information technology and physical location in which the records exist.
  - c) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.
4. The requestor will be notified in ten (10) days whether the board has disclosable public records. Where unusual circumstances exist as specific in Government Code section 6253(c), the agency may, by written notice to the requester, extend the time for response not to exceed fourteen (14) additional days.
5. If a request is made for a record that is stored in an electronic format, the board will comply to the extent required under Government Code Section 6253.9.
6. The board may refuse to disclose any records that are exempt from disclosure under the Public Records Act (PRA).

7. Any denials of PRA requests for consumer complaints shall be subject to Legal Office review prior to responding to the requestor.
8. Functions of the board will not be suspended to permit, and public records will not be made available for, inspection during periods in which such records are reasonably required by board personnel in the performance of their duties. Special arrangements shall be made in advance for the inspection or copying of voluminous records.
9. Public records in the possession of the board may be inspected only in the presence of board personnel, except in those cases where the executive officer or his or her designee, determines otherwise. Physical inspection of such records will be permitted at places within the board office as determined by the executive officer.
10. The board will provide copies of any requested public records not exempt from disclosure upon payment of the following fees:
  - Requested public records will be produced at a charge of thirty-five (35) cents per page plus the actual costs of the staff time for retrieving and duplicating the document(s). The cost of staff time will be computed in accordance with the guidelines contained in Section 8740 of the State Administrative Manual. However, these fees may be waived if the costs of retrieval and duplication are less than the cost of processing the payment.
  - Requests by an individual for copies of records pertaining to that individual (e.g., licensee files, personnel files, etc.) will be provided to that individual at a cost of ten (10) cents per page. In these cases, the cost of staff time for retrieving and duplicating the document(s) shall not be charged (Civil Code sec. 1798.33). However, these fees may be waived if the costs of duplication are less than the cost of processing the payment.
  - Lists of licensees will be provided in electronic, paper, or mailing label form at a charge sufficient to recover the estimated costs of providing the data. Further information and a list of charges may be obtained by contacting the Office of Information Services, Public Information Unit at the following website address: [www.dca.ca.gov/consumer/public\\_info/](http://www.dca.ca.gov/consumer/public_info/) or call (916) 574-8150.
  - As provided in Business and Professions Code sec. 163, a charge of \$2.00 will be made to certify any document. This fee is in addition to copying costs.
11. A person who inspects records of the board shall not destroy, mutilate, deface, alter or remove any such records or records from the location designated for inspection, but shall physically return these in the same condition as when received, upon either the completion of the inspection or upon verbal request of departmental or agency personnel.
12. In the event that any portion of these guidelines may be deemed at any time to conflict with any law or regulation, the law or regulation shall prevail.

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

Reference: Government Code, California Public Records Act

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

NO. G-7

SUBJECT: REVIEW OF STRATEGIC PLAN

PURPOSE: To assure plan is being followed.

POLICY

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

Reference:

History: Adopted 6/23/00

NO. G-8

SUBJECT: DUTIES OF THE PRESIDENT AND VICE PRESIDENT

PURPOSE: Document duties for board members elected to office.

POLICY

President

1. The president shall chair all meetings of the board.
2. The president or any three members of the board may call meetings at any time.
3. If a member is unable to attend, he / she must contact the board president and the registrar / executive officer to advise them of his / her inability to attend.
4. The president will be guided by, but not bound by Robert's Rules of Order when conducting the meetings, except to the extent where it conflicts with state law (Bagley-Keene Open Meeting Act).
5. The president shall establish standing and special committees as the board deems necessary or appropriate. The president shall make the appointment of members to these committees.
6. The president will represent the board in all communications relating to any board action or policy. The president may designate another board member to represent him / her if necessary.
7. The president will approve or disapprove travel by members of the board, not including regularly scheduled board meetings, such approval not to be unreasonably withheld.
8. The president shall have the responsibilities usually vested in or customarily incident to the office of president and otherwise prescribed by law.
9. The president elect shall serve as the board delegate to ASPCRO; if he or she cannot attend, the president, or his or her designee, shall serve as the board delegate to ASPCRO.
10. The president shall supervise the activities of the registrar / executive officer.
11. In intervals between meetings of the board, the president shall have authority to make decisions respecting emergency or urgent matters.



12. The president shall sign decisions and rulings of the board on behalf of the board, and minutes after approved by the board.
13. The president shall serve as liaison between the board and the Deputy Director of Board Support.

#### Vice President

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

Reference: Section 8523, Business and Professions Code

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

SUBJECT: MAIL VOTES

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

### **Mail Votes**

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

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

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

Reference:

History:     Adopted 10/16/14

LICENSING  
and  
EXAMINATION

NO. L-1

SUBJECT: UNAUTHORIZED ASSISTANCE

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

POLICY

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

Reference: Section 496, Business and Professions Code

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

NO. L-2

SUBJECT: POSTPONEMENT OF EXAMINATION

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

POLICY

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

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

History: Adopted 10/29/83

SUBJECT: FEES

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

POLICY

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

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

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

SUBJECT: APPLICATOR EXAMINATION

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

POLICY

General:

1. Examinations and answer keys must be kept in a locked cabinet, closet, drawer, or similar enclosed place and not removed until used.
2. Examination cannot be reproduced in any form.
3. A log provided by the Board of each examination given must be maintained in duplicate and a copy accounting for the previous order sent to the Board with the next order or upon request.
4. The current examination must always be used. When examinations are changed, registered companies will be notified by the Board and unused examinations must be returned to the Board to be exchanged for the current examination.
5. After completion of an examination, whether passed or failed, it must be returned immediately to the Board.
6. The owner or qualifying manager may act as proctor or designate a proctor to administer the examination. Even though the owner or qualifying manager delegates this authority, he/she remains responsible for the integrity of administration of the examination.
7. A new examination booklet must be used each time an examination is given.
8. If an examinee fails the examination, he/she may repeat the examination but a new examination booklet must be used.
9. The passing grade is 70 correct answers.
10. If an examination is lost, stolen or damaged, the Board must be notified immediately.
11. Applicator examinations are not transferable from one company to another.

Administration of Examination:

1. Proctor must identify the examinee by driver's license or other photo identification.
2. Examination must be given in a quiet place.
3. Examination must be uninterrupted.
4. Examination must be taken at one sitting.
5. Examinee must NOT write in the examination booklets.
6. Examinee can take short breaks but they must surrender examination booklets to the proctor and they cannot talk to anyone or consult any aids. If more than one examinee is taking the examination at one time, only one at a time may take a break.
7. Proctor must be present during the entire examination.
8. No resource materials or display can be used.
9. No assistance can be given.
10. Proctor must certify on the cover of the examination that it was administered in accordance with the Board instructions.
11. Examinee must certify on the cover of the examination that the examination was taken in accordance with Board instructions and agree to an audit by re-examination if selected by the Board.
12. Proctor grades the examination.
13. Proctor returns all completed booklets and answer sheets, whether passed or failed, to the Board.
14. If the examinee passes, the temporary certificate on the cover of the examination must be signed, dated, detached and retained by the applicator. The permanent certificate will be sent to the applicator within 30 days of receipt of the examination by the Board.

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

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



NO. L-5

SUBJECT: INCOMPLETE EXAMINATION APPLICATIONS

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

POLICY

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

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

History: Adopted 10/13/89

SUBJECT: CONTINUING EDUCATION EXEMPTIONS FOR ARMED SERVICES PERSONNEL

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

#### POLICY

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

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

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

## ENFORCEMENT

## NO. E-1

**SUBJECT:** COMPLAINT PROCESS

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

### POLICY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBJECT: INSPECTION PROCESS

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

## POLICY

### General:

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

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

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

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

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

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

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

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

No Violation Determined:

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

Violation(s) Determined:

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

Example

RE:

NOTICE

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

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

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

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

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

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

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

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

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

Sincerely,

STRUCTURAL PEST CONTROL BOARD

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

#### Inspection Fees Under Section 8622

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

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

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

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



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

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

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

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

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

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

NO. E-3

SUBJECT: ADMINISTRATIVE HEARING PROCESS

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

POLICY

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

Office of Administrative Hearings Agency Policy Statements

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

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

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

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

Board Member and Staff Appearance with Legal Counsel

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

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

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

SUBJECT: STIPULATED AGREEMENT

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

#### POLICY

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

1. The stipulation should be in writing and submitted by the respondent through the Deputy Attorney General assigned to the case for review by the registrar and submission to the board.
2. The stipulation should contain a penalty.
3. The stipulation should provide for a minimum three year probationary period.
4. The stipulation should specifically state whether restitution has been or will be made to the consumer and the amount of such restitution.
5. The stipulation should provide that respondent agrees to provide a surety bond as required by Business and Professions Code section 8697.3.
6. The stipulation should require as a condition of probation that the respondent complete the Board approved course in the appropriate branch(es) of violation within one and one-half years of the effective date of the decision with a final grade of c minus (c-) or better.
7. The stipulation may restrict discipline to the branch(es) of violation.
8. Quarterly reports may be required as a condition of probation. If so required, respondent must agree to prepare reports under penalty of perjury specifying the following for the particular quarter:

#### Operator – Branch I

- A. Number of fumigations performed.

- B. Number of fumigations using Methyl Bromide, Vikane and other fumigants, identifying such other fumigants.
- C. Name(s) and license number(s) of field representative(s) and operator(s) employed.
- D. Name(s) and license number(s) of supervisor(s) in charge of licensees and work crews.
- E. Type and amount of training offered to new hires and continuing employees.
- F. Complaints received by the company regarding fumigations.
- G. Notices of violations or citations issued by agencies other than the Structural Pest Control Board.
- H. Any other information requested by the registrar.

Operator – Branch II

- A. Number of services performed.
- B. Name(s) and license number(s) of field representative(s) and operator(s) employed.
- C. Name(s) and license number(s) of licensed applicator(s) employed.
- D. Name(s) and license number(s) of supervisor(s) in charge of licensees and work crews.
- E. Type and amount of training offered to new hires and continuing employees.
- F. Complaints received by the company regarding pesticide misapplication.
- G. Pesticide-related notices of violation or citations issued by agencies other than the Structural Pest Control Board.
- H. Any other information requested by the registrar.

Operator – Branch III

- A. Name(s) and license number(s) of field representative(s) and operator(s) employed and the number of inspections completed by each.
- B. Name(s) and license number(s) of licensed applicator(s) employed.
- C. Name(s) and license number(s) of supervisor(s) in charge of licensees and work crews.
- D. Type and amount of training offered to new hires and continuing employees.
- E. Complaints received by the company regarding inspections or work performed.
- F. Notices of violations or citations issued by agencies other than the Structural Pest Control Board.

- G. Number of inspections ordered by licensed real estate agents or realty offices and the number of inspections ordered by individuals.
- H. Number of Notices of Work Completed and Not Completed filed.
- I. Any other information requested by the registrar.

Field Representative/Operator-Employee – Branch I

- A. Number of fumigations performed by this licensee.
- B. Complaints regarding fumigations performed by this licensee.
- C. Training courses completed or currently being taken by this licensee.
- D. Notices of violations or citations issued to this licensee by agencies other than the Structural Pest Control Board.
- E. Any other information requested by the registrar.

Field Representative/Operator-Employee – Branch II

- A. Number of pesticide application performed by this licensee.
- B. Complaints received regarding pesticide misapplication by this licensee.
- C. Training courses completed or currently being taken by this licensee.
- D. Pesticide-related notices of violations or citations issued to this licensee by agencies other than the Structural Pest Control Board.
- E. Any other information required by the registrar.

Field Representative/Operator-Employee – Branch III

- A. Number of inspections completed by this licensee.
- B. Complaints regarding inspections or work performed by this licensee.
- C. Training courses completed or currently being taken by this licensee.
- D. Pesticide related notices of violations or citations issued to this licensee by agencies other than the Structural Pest Control Board.
- E. Any other information requested by the registrar.

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

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

- (2) Procedural steps to be taken by the respondent to prevent a reoccurrence of the violations.
- (3) An explanation for the failure to resolve the complaint at the consumer services representative or board specialist level prior to filing of the accusation by the board.
- (4) An explanation as to why discipline is limited to a specific branch office(s) or to a specific branch of licensure.

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

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

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

SUBJECT: COMPLAINT/DISCIPLINARY DISCLOSURE

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

## POLICY

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

### Information to be Provided Regarding Complaints

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

- A. The number of complaints filed against a licensee/registered company which, after contact with the licensee/registered company, have been closed. If information is requested on a multi-branch company, information will be given on the branch office requested; and
- B. With respect to each such complaint, the following information:
  - (1) Its date of receipt
  - (2) Its disposition, by indicating whether the matter has been:
    - a) dismissed
    - b) disposed of through settlement or compromise
    - c) referred to formal disciplinary action
    - d) disposed of through any other action, formal or informal, taken against the licensee/registered company

### Information to be Provided Regarding Disciplinary Actions

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

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

#### Information to be Provided Regarding License/Registration Certificate Status

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

- A. The name of the licensee/registered company, including all business or fictitious names that appear on board records
- B. The license/registration certificate number
- C. The address of record and telephone number
- D. The date of original licensure/or registration
- E. Information concerning a bond, insurance or cash deposit
- F. The date such license/registration certificate expired or was terminated and, if applicable, the reason for termination

#### Quantity of Information to be Provided per Week

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

#### Press Releases

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

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

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



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

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

#### POLICY

1. A complaint will be accepted for serious cases at the Registrar's discretion.
2. The company must submit to the Board a minimum of three addresses where major violation of the law occurred by the licensee.
3. The company must secure an agreement with each property owner that he/she will allow a Structural Pest Control Board Specialist to inspect the property prior to the repairs being undertaken by the registered company.
4. The complaint is sent directly to the appropriate specialist for inspections of the properties. If violations are observed, the registered company and subject employee are advised.
5. The company must make the necessary repairs for the consumer.
6. Disciplinary action is initiated against the licensed employee.
7. Cases involving poor quality control by an employer, poor supervision, poor training, etc. will not be accepted by the Board.

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

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

SUBJECT: BOARD MEMBER ASSISTANCE IN COMPLAINT INVESTIGATION

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

POLICY

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

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

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

SUBJECT: BOARD REVIEW OF CLOSED COMPLAINTS

PURPOSE: To establish quality control procedures

POLICY

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

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

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

SUBJECT: FALSE ADVERTISING/UNFAIR COMPETITION

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

#### POLICY

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

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

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

SUBJECT: COMPLAINT DISCLOSURE POLICY

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

## POLICY

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

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

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

### Information to be Released

The Board will disclose the following information regarding complaints:

#### Closed Actionable Complaints

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

With regard to closed actionable complaints, the board will disclose the number of closed actionable complaints, and the disposition or action taken, including any criminal conviction or any decision or stipulation which resulted from the filing of an accusation or statement of issues, and the date of closure. The disposition of administrative cases (in accusation and statement of issues) will be released only after the decision has become effective. The Board will furnish a copy of the accusation, statement of issues, citations, documents introduced at the hearing relating to a disciplinary action, and the decision resulting.

## Pending Complaints

Pending complaints are defined to include the following:

### **Category 1.**

- (a) Complaints which are under investigation but no determination has been made as to whether a violation of the Board's laws has occurred, or
- (b) Complaints which after review by Board staff, indicate a probable violation of the Board's laws, but a disposition of the complaint is pending.

### **Category 2.**

- (a) A complaint which after an investigation has indicated a probable violation of the board's law and has been referred to the Attorney General's Office for prosecution.

### **Category 3.**

- (a) A complaint which has resulted in the issuance of a citation by the Board or county agricultural commissioners or the initiation of formal disciplinary action, e.g., an accusation or statement of issues being filed by The Office of the Attorney General, but where a decision has not been rendered.

## **Information To Be Disclosed on Pending Complaints**

Category 1 Complaints---The Board will disclose no information regarding Category 1 complaints.

Category 2 Complaints---The Board will disclose the existence and number of Category 2 complaints filed against a licensee, along with a statement that the complaint has been referred to The Office of the Attorney General for review and possible prosecution, but that there has been no final determination of wrongdoing by the licensee.

Category 3 Complaints---The Board will disclose the existence and number of category 3 complaints and provide copies of the charging documents, e.g. accusation, statement of issues, or citations along with a statement that there has been no final determination of wrongdoing by the licensee.

History:        Adopted 8/13/99

SUBJECT: COMPLAINT DISCLOSURE PROCEDURES FOR STAFF

PURPOSE: To Provide Staff Guidelines For Disclosing Information on Complaints

#### Closed Actionable Complaints

Upon receipt of any inquiry for complaint information, which results in identification of a closed actionable complaint(s), as defined in the Board's Complaint Disclosure Procedure, enforcement staff shall disclose specific information after making the following disclosure statement:

The Board currently has (specify number) closed complaint(s), which has resulted in a administrative or disciplinary action against this individual. A determination has been made that there has been a violation of the laws regulating the practice of pest control. Copies of an accusation, statement of issues, citations, final decisions, and any documents introduced at an administrative hearing or documents, which have been previously distributed to a member of the public, can be disclosed to a member of the public. All other documents contained in the investigatory file will not be made public in accordance with Government Code Section 6254(f).

Following the statement, enforcement staff will disclose the number of complaints received and if there was a violation or if it was settled.

#### Pending Complaints in Board Office

Upon receipt of an inquiry for complaint information, which results in the identification of an open complaint(s), which is under investigation and pending a determination of a violation of intended action, enforcement staff shall make the following disclosure statement:

If no action has been determined or taken on an open complaint the staff will advise that "Currently there are no complaints against the company/individuals."

If complaints after investigation indicated a probable violation, and have been referred to The Office of the Attorney General, but no formal documents have been filed then the following statement should be made. "The Board currently has (specific number) complaint(s) open against this company/individual. The matter(s) has been forwarded to The Office of the Attorney General for review and possible prosecution. At this time there have been no confirmed violations of the Structural Pest Control Act."

### Pending Complaints – Accusation or Statement of Issues Has Been Served

Upon receipt of an inquiry for complaint information which results in the identification of an open complaint which has been referred to The Office of the Attorney General and an accusation or statement of issues has already been served, enforcement staff shall make the following disclosure statement:

"The Board currently has (specify number) complaint(s) open against this individual. The matter(s) has been forwarded to The Office of the Attorney General and an accusation/statement of issues has been served. At this time, there have been no confirmed violations of the Structural Pest Control Act. A copy of the accusation/statement of issues can be obtained by submitting a written request to the Board."

### Subpoenas

If the Board is served with a subpoena that document will be given to the Executive Officer or the Assistant Executive Officer and forwarded to Legal Counsel before any documents are released.

Staff will not provide any additional information.

History:        Adopted 8/13/99



January 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13 SPCB Meeting (San Diego)	14 SPCB Meeting (San Diego)	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	Notes:					

April 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6 SPCB Meeting (Sacramento)	7 SPCB Meeting (Sacramento)	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

July 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13 SPCB Meeting (Ontario)	14 SPCB Meeting (Ontario)	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	Notes:					



October 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1 79
2 80	3 81	4 82	5 83	6 84	7 85	8 86
9 87	10 88	11 89	12 90	13 91	14 92	15 93
16 94	17 95	18 96	19 97	20 98	21 99	22 100
23 101	24 102	25 103	26 104	27 105	28 106	29 107
30 108	31 109	Notes:				