

TITLE 16

STRUCTURAL PEST CONTROL BOARD

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at The Employment Development Department, 722 Capitol Mall Auditorium, Sacramento, California, at 8:00 a.m. on April 4, 2003. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Structural Pest Control Board at its office not later than 5:00 p.m. on

April 2, 2003, or must be received by the Structural Pest Control Board at the hearing. The Structural Pest Control Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 8525 of the Business and Professions Code, and to implement, interpret or make specific Sections 8505.7, 8506.2, 8560 (c), 8505.7, 8516, 8516.2, 8518, 8538, 8593.1, 8610, 8611, 8642, 8643, 8646, 8647, 8650, 8652, 8674 of said Code, the Structural Pest Control Board is considering changes to Division 19 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1. Amend 1914

Section 1914 of the California Code of Regulations requires in part that the Structural Pest Control Board not issue a company registration in a name style that it deems to be confusingly similar to the name style of another registered company. The Board proposes to amend regulation to eliminate this requirement.

2. Amend 1918

Sections 8506.2, 8610 and 8611 of the Business and Professions Code refer to the responsibility of qualifying managers and branch office supervisors to be available to supervise the employees of a registered structural pest control company. Section 1918 of the California Code of Regulations defines "supervise" as actual on-site supervision. The Board proposes to amend section 1918 to clarify that the licensed supervisor must exercise control over the day-to-day operations, and such supervision can be through the

use of communication devices.

3. Amend 1920

Section 1920 provides the guidelines for which a licensee may contest a citation and fine by the Board. Currently, if the Board modifies a citation after the informal conference, the original citation is withdrawn and a new citation is issued. As the regulation is written, this would allow the licensee to again request an informal conference and administrative hearing on essentially the same citation which had been previously considered in an informal conference.

This proposal would amend and specify that a second informal conference for a modified citation could not take place.

4. Amend 1948

Business and Professions Code section 8564.6 requires that an applicant for an applicator's license submit a prescribed fee. Code Section 8674 sets forth the fees imposed for the issuance of an applicator's license and the renewal of an applicator's license. There is no existing regulation to specify the fee for the applicator's license or applicator's license renewal.

5. Amend 1950

Section 8593.1 of the Business and Professions Code states as a condition to the renewal of an applicator's license, the applicator must complete courses of continuing education. The regulations do not specify the number of continuing education hours required to renew an applicator's license.

The proposal will specify the number of continuing education hours required to renew an applicator's license.

6. Amend 1970 (a)

Registered companies are currently required to maintain a fumigation log for each fumigation job performed. The log contains information including the name and address of a guard and the date and hour the police department was notified of the fumigation, where required by local ordinance.

The Board is proposing to amend section 1970 to delete the reporting requirement of the name and address of the guard, and the date and hour the police department was notified of the fumigation, because there is no law that requires a pest control company to hire guards or to notify the police department prior to fumigation.

7. Amend 1983

Recent development and use of termite bait stations as well as bait stations for other areas of structural pest control, references to bait stations in section 1983 can now be misinterpreted to mean something other than rodenticide or avicide bait stations which the

regulation was originally intended to address.

This proposal would clarify that section 1983 references rodenticide and avicide bait stations rather than the newly developed termite bait stations and general pest control bait stations.

8. Adopt 1993.1

Section 8516(b)(12) of the Business and Professions Code states that the inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter. The code further states that any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within ten working days after a reinspection has been ordered.

This proposal would adopt section 1993.1 that requires the Wood Destroying Pest and Organism Inspection Report to contain a statement that specifies that a company must reinspect work done by others within ten days of the request, at a charge, if any, which can be no greater than the original inspection fee for each reinspection; states that a reinspection is visual and does not include concealed areas unless inspected while work is in progress; and states that any guarantees must be received from parties performing repairs.

9. Amend 1993, 1996, 1998 and adopt 1996.3

Senate Bill 1307 (Chapter No. 983) amended sections of the Business and Professions Code to eliminate the requirement for registered companies to file inspection reports and notices of work completed with the Structural Pest Control Board. The bill created a requirement for registered companies to report and file with the Board addresses of properties inspected and the addresses of properties upon which work is completed.

This regulatory proposal would eliminate references to filing of inspection reports and notices of work completed and would require structural pest control companies to file the address of properties inspected and the addresses of properties upon which work has been completed. This proposal would also specify the penalty for violation of the reporting requirements.

10. Amend 1991(a)(13)

Existing regulation gives specific recommendations for corrective measures regarding the restoring of any wooden decks, wooden stairs and wooden landings in exterior exposure where they are unable to serve their intended purpose.

This regulatory proposal would delete specific recommendations relative to wooden decks, wooden stairs and wooden landings as this subject is addressed in existing California Code of Regulation Section 1996 regarding replacement and reinforcement of structural members. This regulation also addresses recommendations for the replacement and

reinforcement of structural members.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Structural Pest Control Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

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

Small Business Impact:

Sec. 1914 will have an affect on small businesses because perspective new pest control companies would no longer have to wait two weeks for a name style approval before being able to submit company registration application.

Sec. 1918 will have an affect on small businesses because qualifying managers and branch office supervisors will no longer be required to actually oversee activities on site, but will instead be able to supervise via communication devices allowing qualifying managers more flexibility over the day to day operations of a company.

Sec. 1920 will have no affect on small businesses because this proposal will only impact licensees. Preventing those licensees from requesting multiple informal conferences in regards to a single citation.

Sec. 1948 will have no affect on small businesses because the proposal will impact the applicant applying for an Applicator License requiring the applicant to pay a license/renewal fee which is consistent with current statutes.

Sec. 1950 will have an affect on small businesses because the proposal will require licensed Applicators to complete a specified number of continuing education hours per current statue. Therefore, effecting pest control companies who will have more knowledgeable employees protecting consumer interest while respecting companies.

Sec. 1970 will have no affect on small businesses because pest control companies currently do not hire security guards nor do companies notify police departments.

Sec. 1983 will have no affect on small business because this proposal only clarifies the difference between termite bait stations and other types of bait stations.

Sec. 1993.1 will have an affect on small businesses because the proposal will impact pest control companies by requiring companies to add specific language regarding reinspections to the Wood Destroying Pest and Organisms Inspection Report. The language would clarify to the consumer a company's responsibility and the time frame in which a reinspection must be performed.

Sections 1990,1990.2,1993,1996,1996.2,1998 and adopt 1996.3 will have an affect on small businesses because the proposal would eliminate the mailing and storage of Wood Destroying Pest and Organisms Inspection Reports and The Notice on Completion and Not Completed forms for the company's and will only require pest control companies to report and file addresses of properties upon which work was completed.

Sec. 1991 (a) (13) will have no affect small businesses because the proposed amendment will serve to delete duplicate language as currently listed in California Code of Regulations.

CONSIDERATION OF ALTERNATIVES,

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Structural Pest Control Board at 1418 Howe Ave. Suite 18, Sacramento, California 95825-3280.

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

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

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

CONTACT PERSON

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

Name: Delores Coleman
Address: Structural Pest Control Board
1418 Howe Ave. Suite 18
Sacramento, CA 95825
Telephone No.: (916) 561-8700
Fax No.: (916) 263-2469
E-Mail Address: Delores_Coleman@dca.ca.gov

The backup contact person is:

Name: Susan Saylor
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Inquiries concerning the substance of the proposed regulations may be directed to Delores Coleman (916) 561-8700.

Website Access: Materials regarding this proposal can be found at www.pestboard.ca.gov