

# **State of California Structural Pest Control Board**



**SUNSET REVIEW  
REPORT  
DECEMBER 1, 2017**

**Business, Consumer Services and Housing Agency  
Department of Consumer Affairs**

State of California  
Edmund G. Brown Jr., Governor  
Alexis Podesta, Secretary, Business, Consumer Services & Housing Agency  
Dean R. Grafilo, Director, Department of Consumer Affairs

## **California Structural Pest Control Board**

### **Board Members**

Darren Van Steenwyk, President, Professional Member  
David Tamayo, Vice President, Public Member  
Curtis Good, Professional Member  
Mike Duran, Professional Member  
Naresh Duggal, Public Member  
Ronna Brand, Public Member  
Servando Ornelas, Public Member

### **Executive Staff**

Susan Saylor, Executive Officer  
Robert Lucas, Assistant Executive Officer  
Kathleen Boyle, Chief Enforcement Officer  
Dave Skelton, Administrative Analyst  
Sabina Knight, Legal Counsel

2005 Evergreen Street, Suite 1500  
Sacramento, CA 95815  
Fax: (916) 263-2469,  
Office: (916) 561-8700

E- Mail: [pestboard@dca.ca.gov](mailto:pestboard@dca.ca.gov)  
Website: [www.pestboard.ca.gov](http://www.pestboard.ca.gov)

# **STRUCTURAL PEST CONTROL BOARD**

## **BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM**

### **As of December 1, 2017**

#### **Section 1 – Background and Description of the Board and Regulated Profession**

### **History and Function of the Board**

As early as the 1930s, the structural pest control profession was largely unregulated. Consequently, consumers faced challenges securing the services of professionals capable of performing all the tools of the trade. Not all practitioners possessed the skill-sets necessary to competently render services such as, but not limited to, knowledge of building laws, building construction, air and water quality, use of poisonous and lethal gases, even non-harmful removal or exclusion of animals or certain species of insects. Local building divisions and law enforcement lacked the technical skills and specialized knowledge necessary to effectively and efficiently resolve disputes. Unskilled laborers rendering services unwittingly put themselves in harms' way, including the clients that they served. These limiting factors compounded the difficulties experienced by consumers seeking administrative or judicial relief, leaving many to potentially suffer financial harm, or perhaps being victims of substandard building repairs and/or adverse health and safety exposure to toxic levels of pesticides. The nature of the profession reinforced a need for a dedicated regulatory referee who could assemble the missing pieces of the puzzle, providing the groundwork for positive changes.

In 1935, in response to consumer and industry demand, by way of the Constitution of California, the California Legislature passed the first Structural Pest Control Act (Assembly Bill 2382, Chapter 823, Statutes of 1935). Added to the California codes, this Chapter was made effective January 1, 1936 and was to be administered by the California Pest Control Association. The new statute set standards for the pest control occupation by mandating, among other provisions, that practitioners meet stringent experience and continuing education requirements, thus providing the foundation for one of the most comprehensive consumer protection laws to date. Chapter 14 of the Structural Pest Control Act was added to Statutes of 1941, repealing Statutes of 1939, which codified the Business and Professions Code, commencing with Section 8500 and forming the Structural Pest Control Board (Board) as it exists today.

The Board's highest priority (Business and Professions Code Section 8520.1) is to protect and benefit the public by regulating the pest control industry. The sphere of the Board's mission and vision is under the leadership of a 7-member appointed board and the executive officer who serves at the Board's leisure. The Board's mission is to protect the general welfare of Californians and the environment by promoting outreach, education and regulation of the structural pest management professions. The Board's vision is to strive to be the

national regulatory leader of pest management. In achieving these priorities, the Board actively follows its core values: 1) consumer protection, 2) efficiencies, 3) integrity, and 4) professionalism.

Structural pest control includes, not by way of limitation, the eradication and/or prevention of structural pests such as cockroaches, ants and rodents or wood-destroying pests such as termites, wood boring beetles and carpenter ants. Structural pest control licensees may use fumigation with poisonous or lethal gases or they may use mechanical means such as freezing, heating and trapping technologies when servicing a property. The profession also includes the performance of structural repairs to real property (such as buildings) and other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof. Licensees routinely exercise professional judgment when determining the best method to correct structural pest issues, but they also must adhere to strict standards to ensure public safety (especially the use and handling of poisonous or lethal gases). They prepare written reports to consumers and they fully explain their recommendations, including product efficacy and pesticide safety disclosures, permitting consumers to make educated, informed decisions.

The Structural Pest Control Act requires that licensees fulfill continuing education requirements by completing industry-relevant courses to stay fluent with technology and accepted professional practices. The Board also approves scientific research into new pest control/abatement technologies to address new or escalating social or environmental issues, such as professional standards to provide integrated pest management.

The Structural Pest Control Board has successfully served the interests of consumers for more than eighty years, giving consumers options in lieu of the high costs of civil actions. These services include Board mediation and conciliation services, investigations, and administrative orders of correction or restitution. Most importantly, consumers are significantly protected against the health hazards associated with the misuse of pesticides and lethal gases. Both the consumer and industry benefit from well-versed licensees who must demonstrate levels of competency and continuing education that are considered unparalleled to their national counterparts. The Board remains at the forefront of the industry and continues to set the standard for the practice of structural pest management in the nation and abroad.

## **Description of the Occupation and Licensing Structure**

### **LICENSING AND EXAMINATION**

The Board safeguards consumers by ensuring that persons obtaining a license as an Applicator, Field representative or Operator in the areas of fumigation, general pest, and termite (wood-destroying pests and organisms) possess professional levels of competency, which includes education and experience, and proficiencies necessary to pass a Board administered occupational exam. The occupational examinations are updated in conformance with federal and state guidelines, meaning that test questions are validated and cross-validated by staff to assure examination quality, relevance and framework. Occupational analyses are conducted in accordance with state administrative requirements so that the examinations reflect the most current practices of the occupation.



The licensing program also ensures that all company registrations, branch office locations and licensees comply with state requirements for maintaining surety bonds and liability insurance in good standing. The Board educates the public about the licensing program by interpreting applicable laws and regulations for the issuance and maintenance of licenses as well as enabling the public access to public records, including opportunity to comment regarding rulemaking for the development of Board licensing regulations. The Board also receives comment and feedback from the public in legislative matters.

Consumer satisfaction surveys help to ensure that the licensing program remains optimally responsive to consumer needs.

## **ENFORCEMENT**

The enforcement program educates consumers about the Board's enforcement laws and regulations and, in addition, assists consumers by mediating and investigating complaints for possible violations of the Structural Pest Control Act. The California Attorney General files administrative actions on behalf of the Board to deny, grant, suspend or revoke licenses, while civil and criminal matters are referred by the Board to city and district attorneys for violations committed by licensees and unlicensed practitioners. The enforcement program also reviews and audits the records of licensees and companies for compliance with the Act. The program also monitors probationers to ensure that they follow all terms and conditions of probation relevant to administrative, civil or criminal sanctions.

Consistent with performance measurements used in the licensing program, the enforcement program also uses consumer satisfaction surveys, allowing the program to be optimally responsive to its clients and stakeholders.

## **CONTINUING EDUCATION**

Continued competency is achieved through mandatory continuing education (CE). Licensees must demonstrate knowledge of current laws, regulations and professional practices to properly maintain their licenses. The Structural Pest Control Board approves course content and provides a statewide list of course providers on its website to assist upstart and current CE businesses. Continuing education includes, but is not limited to, health and safety rules, pesticide use, environmental safety, and Board rules and regulations. CE requirements vary depending on the type and class of license(s) and number of categories held by the individual licensee. The number of required hours varies from 12 to 24 hours of continuing education courses in a three-year renewal cycle. The Board conducts random audits throughout the year to ensure compliance with license renewal and continuing education requirements. Failure of a licensee to meet the required continuing education requirement may result in the cancellation of the license. Violations of continuing education requirements, such as submitting false continuing education certificates, may result in a disciplinary action to suspend or revoke a license.

## **EDUCATION AND OUTREACH**

Information regarding every structure inspected for wood-destroying pests and organisms in California within the last two years is found on the Board's website: [www.pestboard.ca.gov](http://www.pestboard.ca.gov).

Consumers can request a copy of the actual report as well as a notice that describes any conditions corrected on any structure.

The site provides examination and licensing information, as well as disciplinary information. Forms that a consumer or licensee may request are found on the website. Educational brochures are provided to consumers and real estate agents that explain fumigations, general pests, and termites. These brochures are comprised of the most commonly asked questions by consumers, with answers provided.

All board meeting agendas and minutes are posted on the website as well as complete information about the Board's laws and regulations

## **RESEARCH**

Research serves as a vital component of the pest control profession, particularly as it relates to continuing education and professional field practices. Research is defined in pertinent part as a "studious inquiry or examination; especially investigation or experimentation aimed at the discovery and interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories or laws." (Merriam-Webster.com, August 2017).

Research is a vehicle that allows the public and industry to better educate themselves concerning industry practices, both old and new. Requests for research are conducted in accordance with the Bagley-Keene Act, by a Board-appointed Research Advisory Panel, giving the industry and members of the public an opportunity to comment and recommend research goals and objectives. This information is then forwarded to board members for consideration and implementation. Board member approved topics are then vetted through a request for proposals and are advertised statewide. Following award of the contract(s), information regarding the progress of research is published on the Board's website which may stimulate future Board agendas for updates, discussion, and action.

## **TITLE AND PRACTICE ACT**

Composed with the passage of the Structural Pest Control Act in 1935, the legislature organized a system of laws divided into chapters and articles designed to define the practice of structural pest control, including but not limited to, Pesticides, Issuance of Licenses to Disciplinary Proceedings. The Practice Act sets, among other areas, rules of conduct, court procedure and accepted industry trade practices with particular emphasis on licensee qualifications, license maintenance, and public safety in mind.

The Title Act differentiates statutory provisions in the Business and Professions Code, organized under chapters, which outlines each of the Practice Act professions, such as dentists versus nurses, or contractors versus pest control operators. It also preserves within each chapter the authority of the licensee to use the title of structural pest control operator versus an engineer or architect. The Title Act prohibits other professions or vocations (as well as unlicensed persons/entities) from using titles (or names) without proper credentials or demonstrated aptitudes. The Title Act ensures public safety whereby only appropriately licensed persons in professions and vocations maintain the requisites to practice in the

selected field of practice.

- **Describe the make-up and functions of each of the board's committees (cf., Section 12, Attachment B).**

### **Standing Committees**

**Research Advisory Panel** — This committee is defined by the California Code of Regulations (Section 1919) and authorized by B&P Section 8674(t), the panel is assigned by the board on an as-needed basis to approve and to fund structural pest control research programs.

**Disciplinary Review Committee** — This committee is defined by statute (8660 B&P) and consists of three members and was established for the purpose of reviewing appeals of orders issued by agricultural commissioners acting under authority of 8617 B&P. The committee, as a county adjudicatory body, does not have the authority to suspend or revoke a license issued by the Board; that authority rests solely with the Board.

**Technical Advisory Committee** — Considers any matter referred by the Board that requires Board action but is of such a technical nature that it requires substantial research, input and consideration by persons qualified in that specific topic to make recommendations to the Board.

### **Select Committees**

**Act Review Committee** — This committee meets as directed by the Board to deliberate and effect additions, revisions or deletions to the Structural Pest Control Act and the California Code of Regulations. The committee is also tasked with recommending legislation as necessary clarifying the statute's purpose.

**Pre-Treat Committee** — This committee was formed to address an industry trend of pre-construction termite treatments being performed at less than label rate of product.

**Continuing Education Integrated Pest Management Committee** — This committee was established to examine the board's continuing education program and recommend changes that would place an increased emphasis on integrated pest management education and professional practice.

**Table 1a. Attendance****Dave Tamayo****Re-Appointed: September 9, 2016**

<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Attended</b>	<b>Meeting Location</b>
Board Meeting	January 16 & 17, 2013	Yes	Sacramento
Board Meeting	April 24 & 25, 2013	Yes	Sacramento
Board Meeting	June 28, 2013 (Tele)	No	Teleconference
Board Meeting	August 15, 2013	Yes	Sacramento
Board Meeting	October 16 & 17, 2013	Yes	San Diego
Board Meeting	January 23 & 24, 2014	Yes	Sacramento
Board Meeting	March 27, 2014	Yes	Sacramento
Board Meeting	April 22, 2014	Yes	Teleconference
Board Meeting	July 9 & 10, 2014	Yes	San Diego
Board Meeting	October 16 & 17, 2014	Yes	Sacramento
Board Meeting	January 14 & 15, 2015	Yes	San Diego
Board Meeting	March 25 & 26, 2015	Yes	Sacramento
Board Meeting	July 22 & 23, 2015	Yes	Ontario
Board Meeting	September 4, 2015	Yes	Teleconference
Board Meeting	October 7 & 8, 2015	Yes	Sacramento
Board Meeting	January 13 & 14, 2016	Yes	San Diego
Board Meeting	April 6 & 7, 2016	Yes	Sacramento
Board Meeting	July 14, 2016	No	Sacramento
Board Meeting	October 12 & 13, 2016	Yes	Sacramento
Board Meeting	January 12, 2017	No	Sacramento
Board Meeting	April 6, 2017	Yes	Sacramento
Board Meeting	July 11 & 12, 2017	Yes	Ontario
Board Meeting	August 3, 2017	Yes	Teleconference

**Darren Van Steenwyk****Appointed: June 21, 2016**

<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Attended</b>	<b>Meeting Location</b>
Board Meeting	October 12 & 13, 2016	Yes	Sacramento
Board Meeting	January 12, 2017	Yes	Sacramento
Board Meeting	April 6, 2017	Yes	Sacramento
Board Meeting	July 11 & 12, 2017	Yes	Ontario
Board Meeting	August 3, 2017	Yes	Teleconference



**Ronna Brand****Re-Appointed: July 14, 2017**

<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Attended</b>	<b>Meeting Location</b>
Board Meeting	January 16 & 17, 2013	No	Sacramento
Board Meeting	April 24 & 25, 2013	Yes	Sacramento
Board Meeting	June 28, 2013	No	Teleconference
Board Meeting	August 15, 2013	Yes	Sacramento
Board Meeting	October 16 & 17, 2013	Yes	San Diego
Board Meeting	January 23 & 24, 2014	No	Sacramento
Board Meeting	March 27, 2014	Yes	Sacramento
Board Meeting	April 22, 2014	Yes	Teleconference
Board Meeting	July 9 & 10, 2014	Yes	San Diego
Board Meeting	October 16 & 17, 2014	No	Sacramento
Board Meeting	January 14 & 15, 2015	Yes	San Diego
Board Meeting	March 25 & 26, 2015	No	Sacramento
Board Meeting	July 22 & 23, 2015	Yes	Ontario
Board Meeting	September 4, 2015	No	Teleconference
Board Meeting	October 7 & 8, 2015	No	Sacramento
Board Meeting	January 13 & 14, 2016	Yes	San Diego
Board Meeting	April 6 & 7, 2016	No	Sacramento
Board Meeting	July 14, 2016	Yes	Sacramento
Board Meeting	October 12 & 13, 2016	No	Sacramento
Board Meeting	January 12, 2017	Yes	Sacramento
Board Meeting	April 6, 2017	Yes	Sacramento
Board Meeting	July 11 & 12, 2017	No	Ontario
Board Meeting	August 3, 2017	No	Teleconference

**Naresh Duggal****Re-Appointed: July 3, 2013**

<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Attended</b>	<b>Meeting Location</b>
Board Meeting	January 16 & 17, 2013	Yes	Sacramento
Board Meeting	April 24 & 25, 2013	Yes	Sacramento
Board Meeting	June 28, 2013	Yes	Teleconference
Board Meeting	August 15, 2013	Yes	Sacramento
Board Meeting	October 16 & 17, 2013	Yes	San Diego
Board Meeting	January 23 & 24, 2014	Yes	Sacramento
Board Meeting	March 27, 2014	Yes	Sacramento
Board Meeting	April 22, 2014	No	Teleconference
Board Meeting	July 9 & 10, 2014	Yes	San Diego
Board Meeting	October 16 & 17, 2014	Yes	Sacramento
Board Meeting	January 14 & 15, 2015	No	San Diego
Board Meeting	March 25 & 26, 2015	Yes	Sacramento
Board Meeting	July 22 & 23, 2015	No	Ontario
Board Meeting	September 4, 2015	Yes	Teleconference
Board Meeting	October 7 & 8, 2015	Yes	Sacramento

Board Meeting	January 13 & 14, 2016	No	San Diego
Board Meeting	April 6 & 7, 2016	No	Sacramento
Board Meeting	July 14, 2016	Yes	Sacramento
Board Meeting	October 12 & 13, 2016	Yes	Sacramento
Board Meeting	January 12, 2017	Yes	Sacramento
Board Meeting	April 6, 2017	Yes	Sacramento
Board Meeting	July 11 & 12, 2017	No	Ontario
Board Meeting	August 3, 2017	No	Teleconference

### **Mike Duran**

**Re-Appointed: June 5, 2015**

<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Attended</b>	<b>Meeting Location</b>
Board Meeting	January 16 & 17, 2013	Yes	Sacramento
Board Meeting	April 24 & 25, 2013	Yes	Sacramento
Board Meeting	June 28, 2013	Yes	Teleconference
Board Meeting	August 15, 2013	Yes	Sacramento
Board Meeting	October 16 & 17, 2013	Yes	San Diego
Board Meeting	January 23 & 24, 2014	Yes	Sacramento
Board Meeting	March 27, 2014	Yes	Sacramento
Board Meeting	April 22, 2014	Yes	Teleconference
Board Meeting	July 9 & 10, 2014	Yes	San Diego
Board Meeting	October 16 & 17, 2014	Yes	Sacramento
Board Meeting	January 14 & 15, 2015	Yes	San Diego
Board Meeting	March 25 & 26, 2015	Yes	Sacramento
Board Meeting	July 22 & 23, 2015	Yes	Ontario
Board Meeting	September 4, 2015	Yes	Teleconference
Board Meeting	October 7 & 8, 2015	Yes	Sacramento
Board Meeting	January 13 & 14, 2016	Yes	San Diego
Board Meeting	April 6 & 7, 2016	Yes	Sacramento
Board Meeting	July 14, 2016	Yes	Sacramento
Board Meeting	October 12 & 13, 2016	Yes	Sacramento
Board Meeting	January 12, 2017	Yes	Sacramento
Board Meeting	April 6, 2017	Yes	Sacramento
Board Meeting	July 11 & 12, 2017	Yes	Ontario
Board Meeting	August 3, 2017	Yes	Teleconference

### **Curtis Good**

**Re-Appointed: July 14, 2017**

<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Attended</b>	<b>Meeting Location</b>
Board Meeting	January 16 & 17, 2013	Yes	Sacramento
Board Meeting	April 24 & 25, 2013	Yes	Sacramento
Board Meeting	June 28, 2013	Yes	Teleconference
Board Meeting	August 15, 2013	Yes	Sacramento

Board Meeting	October 16 & 17, 2013	Yes	San Diego
Board Meeting	January 23 & 24, 2014	Yes	Sacramento
Board Meeting	March 27, 2014	Yes	Sacramento
Board Meeting	April 22, 2014	Yes	Teleconference
Board Meeting	July 9 & 10, 2014	Yes	San Diego
Board Meeting	October 16 & 17, 2014	Yes	Sacramento
Board Meeting	January 14 & 15, 2015	Yes	San Diego
Board Meeting	March 25 & 26, 2015	Yes	Sacramento
Board Meeting	July 22 & 23, 2015	Yes	Ontario
Board Meeting	September 4, 2015	Yes	Teleconference
Board Meeting	October 7 & 8, 2015	Yes	Sacramento
Board Meeting	January 13 & 14, 2016	Yes	San Diego
Board Meeting	April 6 & 7, 2016	Yes	Sacramento
Board Meeting	July 14, 2016	Yes	Sacramento
Board Meeting	October 12 & 13, 2016	Yes	Sacramento
Board Meeting	January 12, 2017	Yes	Sacramento
Board Meeting	April 6, 2017	Yes	Sacramento
Board Meeting	July 11 & 12, 2017	Yes	Ontario
Board Meeting	August 3, 2017	Yes	Teleconference

#### **Servando Ornelas**

**Appointed: January 12, 2017**

<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Attended</b>	<b>Meeting Location</b>
Board Meeting	April 6, 2017	Yes	Sacramento
Board Meeting	July 11 & 12, 2017	No	Ontario
Board Meeting	August 3, 2017	No	Teleconference

**Table 1b. Board/Committee Member Roster**

Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Ronna Brand	05/18/2012	07/14/2017	06/01/2021	Governor	Public
Naresh Duggal	05/18/2012	07/03/2013	06/01/2017 (currently in grace period)	Governor	Public
Mike Duran	05/18/2012	06/05/2015	06/01/2019	Governor	Professional
Curtis Good	06/29/2010	07/14/2017	06/01/2021	Governor	Professional
David Tamayo	09/09/2010	09/19/2016	06/01/2020	Speaker of the Assembly	Public
Darren Van Steenwyk	06/21/2016	N/A	06/01/2020	Governor	Professional
Servando Ornelas	01/12/2017	N/A	06/01/2021	Senate Rules Committee	Public

- **In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?**

The Board has maintained full quorum status at all committee meetings and board meetings.

- **Describe any major changes to the board since the last Sunset Review, including, but not limited to:**

**Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)**

The Board has not undergone any major changes since the last Sunset Review.

**All legislation sponsored by the board and affecting the board since the last sunset review.**

### **2013 / 2014 Legislative Session**

- ✓ **AB-1685** — Authorized the board to charge a fee in an amount sufficient to cover the reasonable regulatory cost of administering its examinations, not to exceed \$60 for an applicator test, \$50 for a field representative test, and \$50 for an operator test.
- ✓ **SB-662** — An act to amend B&P Sections 8690, 8691, 8692, 8697, and 8697.3, and to repeal Sections 8693 and 8697.5. This bill makes conforming changes and raises the monetary requirement of a bond from \$4,000 to \$12,500 (including a restoration bond \$8,000 to \$25,000, formerly \$1,000 to \$8,000) and insurance policy (\$500,000, formerly \$25,000) for company registrations. The bill also eliminates the option of obtaining a cash or cash-equivalent deposit in lieu of a bond and/or insurance policy.

This bill amends the surety bond amounts and insurance minimum limits in order to cover the costs of structural pest control services and financial claims in the current marketplace, and safeguards consumers by allowing alternatives for the resolution of their financial disputes.

- ✓ **SB-1244** — This bill extended the board's sunset date from January 1, 2015 to January 1, 2019. Additionally, this bill amended Business and Professions Code sections 8505, 8505.1, 8505.2, 8505.5, 8505.10, 8505.12, 8505.14, 8505.17, 8507.1, 8514, 8518, 8520, 8528, 8551.5, 8560, 8562, 8564, 8564.6, 8565, 8566, 8567, 8590, 8593.1, 8612, 8613, 8617, 8622, 8643, 8647, 8651, 8660, 8673, and 8674, added sections 8504.1 and 8672.1, and repealed sections 8505.6, 8565.6, and 8590.1. These changes were made based on the recommendation of the board's Act Review Committee in an attempt to



update and modernize the Structural Pest Control Act.

- ✓ **SB-1405** — This bill amended the Healthy Schools Act to require licensees to comply with the training requirements of the Healthy Schools Act of 2000 if the licensee intends to apply a pesticide at a school site, as defined.

### **2015 / 2016 Legislative Session**

- ✓ **AB-1874** — This bill revised the definition of “qualifying manager” to require that the licensed operator be physically present at the principal office or branch office location for a minimum of 9 days every 3 consecutive calendar months, and required that these days be documented and provided to the board upon request.
- ✓ **AB-2529** — This bill specified that a registered company may hire or employ unlicensed individuals to perform work on contracts or service agreements, as defined, covering Branch 1, 2, or 3, or combinations thereof. Additionally, this bill amended the provisions regarding enforcement activity related to the use of personal protective equipment by licensees.
- ✓ **SB-1039** — This bill requires the operator who is conducting the inspection prior to the commencement of work to be employed by a registered company, except as specified. The bill does not require the address of an inspection report prepared for use by an attorney for litigation to be reported to the board or assessed a filing fee. The bill requires instead that the written inspection report be prepared and delivered to the person requesting it, the property owner, or the property owner’s designated agent, as specified. The bill allows an inspection report to be a complete, limited, supplemental, or reinspection report, as defined. The bill requires all inspection reports to be submitted to the board and maintained with field notes, activity forms, and notices of completion until one year after the guarantee expires if the guarantee extends beyond 3 years. The bill requires the inspection report to clearly list the infested or infected wood members or parts of the structure identified in the required diagram or sketch.

### **2016 / 2017 Legislative Session**

- ✓ **AB-593** — This bill would extend the sunset date of the Structural Fumigation Enforcement Program from January 1, 2018 to January 1, 2023. The structural fumigation enforcement program funds increased enforcement activity related to fumigation in Los Angeles, Orange, Santa Clara, and San Diego counties, where the practice of fumigation is most common. This bill has been chaptered and filed with Secretary of State on September 11, 2017.

- ✓ **AB-1590** — This bill would require a complaint in writing against a non-licensee, licensee, or registered company to be filed with the board no later than 2 years after the act or omission or, in a matter involving fraud, gross negligence, or misrepresentation, no later than 4 years after commission of the act or omission. Additionally, it would require the board to file any accusation no later than 18 months instead of 12 months after the complaint was filed with the board, except as specified. This bill has been chaptered and filed with Secretary of State on September 25, 2017.
- ✓ **SB-800** — This bill would authorize a registered company to notify the registrar, as specified, when certain licensees are no longer associated with the registered company.
- **All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.**

The following is a breakdown of the Structural Pest Control Board's Rulemaking actions. The Board's regulations are promulgated pursuant to Title 16 of California Code of Regulations, Division 19.

SECTION	SUBJECT	STATUS
1902	<b>Definitions</b>	April 6, 2017 - Staff Preparing Regulatory Proposal
1911	Addresses – Permits licensees to request a mailing address other than the address of record.	March 13, 1996 – Approved by the Office of Administrative Law
	Addresses – Requires applicators to report change of address.	August 12, 1996 – Approved by the Office of Administrative Law
	<b>Change of Address / Employment</b>  Allow Employers to Notify Board of Employee Disassociation	November 5, 2014 — Act Review Committee Recommended Change to Allow Companies to Notify the Board of Employee Disassociation  April 6, 2017 – Seeking Author to Amend B&P Code 8567 to Provide Statutory Authority to Amend CCR 1911

1914	<b>Name Style – Company Registration</b>  Will Prohibit the Approval or Use of a Company Name or Telephone Number That is the Same as the Name or Telephone Number of a Company Whose Registration has Been Surrendered	October 13, 2016 – Public Hearing was Conducted and Board Directed Staff to Begin Final Rulemaking Process  April 6, 2017 – Final Rulemaking Package Undergoing Review at DCA
1920(e)(2)	<b>Citations and Fines</b>  Allows the Board 30 Days Rather Than 10 to Notify Respondents of Informal Conference Decisions	July 14, 2016 – Language Approved by the Board and Staff Instructed to Begin the Rulemaking Process  April 6, 2017 – Staff Preparing Regulatory Proposal
1936	Operator and Field Representative License Applications Revisions to include military and veteran status, revised criminal history question, etc.	March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms June 4, 2015 - Noticed for Public Hearing  July 23, 2015 - Public Hearing – Adopted by Board.  August 20, 2015 – To DCA for legal review.  June 8, 2016 – 15 Day Notice of Modified Text issued to clarify that California ID in lieu of driver license is acceptable.  October 12, 2016 – Approved and Effective January 1, 2017



1936.1	Company Registration Form Revisions to include military and veteran status, revised criminal history question, etc.	<p>March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms</p> <p>June 4, 2015 - Noticed for Public Hearing</p> <p>July 23, 2015 - Public Hearing – Adopted by Board.</p> <p>August 20, 2015 – To DCA for legal review.</p> <p>June 8, 2016 – 15 Day Notice of Modified Text issued to clarify that California ID in lieu of driver license is acceptable.</p> <p>October 12, 2016 – Approved and Effective January 1, 2017</p>
1936.2	Applicator License Application Form Revisions to include military and veteran status, revised criminal history question, etc.	<p>March 27, 2014 – Staff directed by Board to begin rulemaking process to revise forms</p> <p>June 4, 2015 - Noticed for Public Hearing.</p> <p>July 23, 2015 - Public Hearing – Adopted by Board</p> <p>August 20, 2015 – To DCA for legal review.</p> <p>June 8, 2016 – 15 Day Notice of Modified Text issued to clarify that California ID in lieu of driver license is acceptable.</p> <p>October 12, 2016 – Approved and Effective January 1, 2017</p>



1937.11	Revisions regarding when suspension time must be served, length of probation, tolling of probation, etc.	<p>July 17, 2015 – Resubmitted to OAL October 13, 2016 – Public Hearing was Conducted and Board Directed Staff to Begin Final Rulemaking Process</p> <p>January 12, 2017 – Final Rulemaking Package Undergoing Review at DCA</p> <p>April 6, 2017 – Modified Language Presented to the Board for Approval to Send 15 Day Notice of Modified Text</p>
1960	Fingerprint Requirement – requires all licensees who have not previously been fingerprinted to do so upon license renewal	<p>March 26, 2015 - Text Approved by Board Members June 4, 2015 - Noticed for Public Hearing July 23, 2015 - Public Hearing – Adopted by Board. August 20, 2015 – To DCA for review. December 1, 2015 – Approved by DCA, to Agency for review. January 21, 2016 – To OAL for final review. February 29, 2016 – Approved and effective.</p>

1970.4	Allows for signed Occupants Fumigation Notice to be in electronic format	<p>January 15, 2015 – Text Approved by Board Members</p> <p>June 4, 2015 – Noticed for Public Hearing</p> <p>July 23, 2015 – Public Hearing.</p> <p>August 20, 2015 – To DCA for review.</p> <p>February 17, 2016 – To OAL for final review.</p> <p>March 22, 2016 – Approved to become effective July 1, 2016.</p> <p>Industry notified May 31, 2016.</p>
1970.4	<p><b>Pesticide Disclosure Requirement</b></p> <p>Additional updates allowing information about pesticide use to be distributed electronically.</p>	<p>October 8, 2015 – Language approved by the Board</p> <p>January 15, 2016 – Act Review Committee Recommended Additional Changes. Staff Preparing Documents</p> <p>April 6, 2017 – Staff Preparing Regulatory Proposal</p>
1990	<p><b>Report Requirements Under Section 8516</b></p> <p>Makes various changes to clarify and update existing language.</p>	<p>January 14, 2016 – Language approved by Board and staff instructed to begin the rulemaking process.</p> <p>April 6, 2017 – Staff Preparing Regulatory Proposal.</p>
1991	<p><b>Report Requirements</b></p> <p>Makes Various Changes to the Language to Promote Clarity and Consistency</p>	<p>January 14, 2016 – Language approved by Board and staff instructed to begin the rulemaking process</p> <p>April 6, 2017 – Staff Preparing Regulatory Proposal</p>
1992	<p><b>Secondary Recommendations</b></p> <p>Changes Language to Specifically State That Secondary Recommendations Must be Listed on the Notice of Work Completed / Not Completed</p>	<p>January 14, 2016 – Language approved by Board and staff instructed to begin the rulemaking process</p> <p>April 6, 2017 – Staff Preparing Regulatory Proposal</p>



<b>1993.2</b>	<p><b>Termite Bait Stations.</b></p> <p>Defines above and below ground termite bait stations as devices containing pesticide bait. Specifies that use of termite bait stations is a control service agreement.</p>	<p>October 13, 2016 – Public Hearing was Conducted and Board Directed Staff to Begin Final Rulemaking Process</p> <p>October 1, 2017 – Final Rulemaking Package Undergoing Review at OAL</p>
<b>1993.3</b>	<p><b>In-Ground Termite Bait Stations.</b></p> <p>Being repealed. Language in 1993.2 &amp; 1993.4 make this section obsolete.</p>	<p>October 13, 2016 – Public Hearing was Conducted and Board Directed Staff to Begin Final Rulemaking Process</p> <p>October 1, 2017 – Final Rulemaking Package Undergoing Review at OAL</p>
<b>1993.4</b>	<p><b>Termite Monitoring Devices.</b></p> <p>New section defining termite monitoring devices and providing guidelines for installation and use.</p>	<p>October 13, 2016 – Public Hearing was Conducted and Board Directed Staff to Begin Final Rulemaking Process</p> <p>October 1, 2017 – Final Rulemaking Package Undergoing Review at OAL</p>

**4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).**

The Board has not conducted any major studies since the last Sunset Review. However, the Board convened in January 2017 and approved the Research Advisory Committee's recommendation to submit a Request for Proposals (RFP) to the Department of Consumer Affairs. The topic of research involves studies surrounding the ingestion of rodenticides by non-target pests and best practices in the performance of integrated pest management. As of October 1, 2017, the RFP is pending approval from DCA's Contracts Unit for approval to release to University of California researchers in California.

**5. List the status of all national associations to which the board belongs.**

The Board does not belong to any national association, but does collaborate and receive input in connection with rules, regulations, legislation and pesticide use issues from the following state and national associations.

1. The Association of Structural Pest Control Regulatory Officials (ASPCRO): A professional association comprised of the structural pest control regulatory officials of any of the fifty states. ASPCRO's purpose, among other areas, is to promote better understanding and

efficiency in the administration of laws and regulatory authority between states concerning the control and eradication of pests.

2. Pest Control Operators of California: A non-profit trade association that serves the business and educational needs of pest control operators for over 80 years.
  3. National Pest Management Association: A non-profit organization with more than 7,000 members to support the pest management industry's commitment to protection of the public.
  4. California Agricultural Commissioners & Sealers Association (CACASA): A voluntary organization comprised of County Agricultural Commissioners and County Sealers of Weights and Measures from 58 counties in the State of California providing a collaborative forum to resolve many public welfare issues.
- Does the board's membership include voting privileges?  
**None**
  - List committees, workshops, working groups, task forces, etc., on which board participates.  
**None**
  - How many meetings did board representative(s) attend? When and where?  
**None**
  - If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?  
**None**

## Section 2

### Performance Measures and Customer Satisfaction Surveys

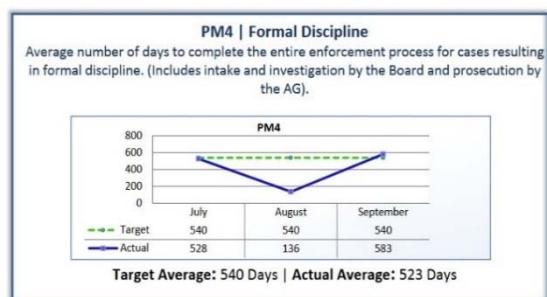
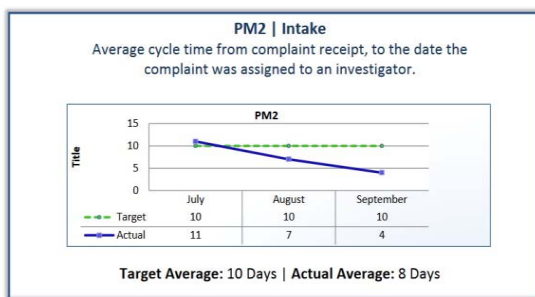
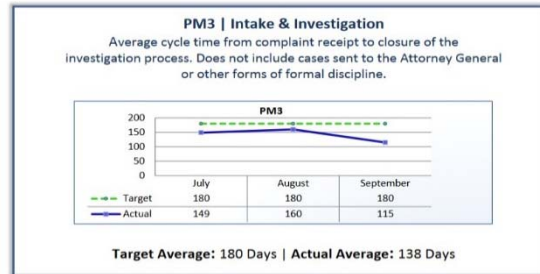
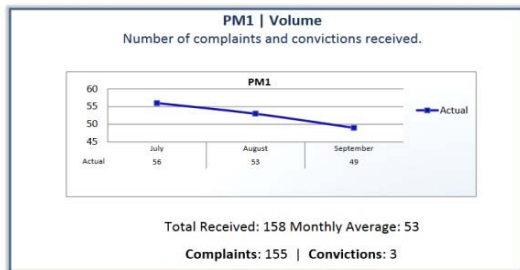
6. **Provide each quarterly and annual performance measure report for the board as published on the DCA website.**

Please see tables organized by fiscal year in the following pages.

## Performance Measures

### Q1 Report (July - September 2013)

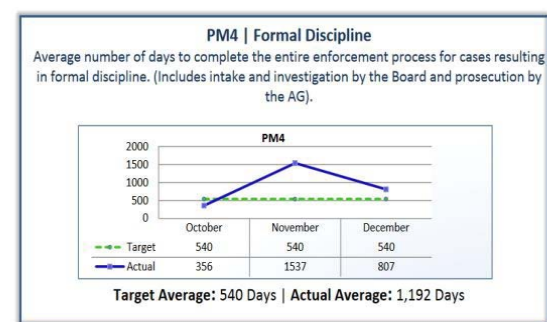
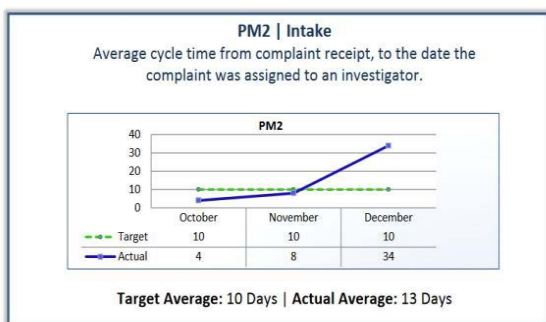
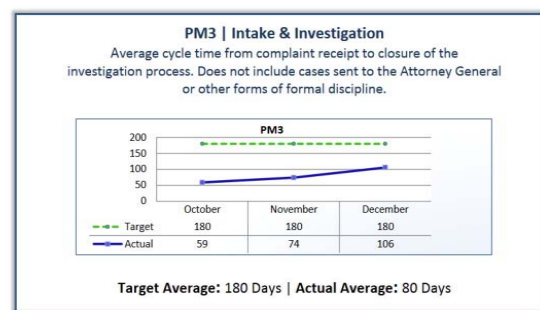
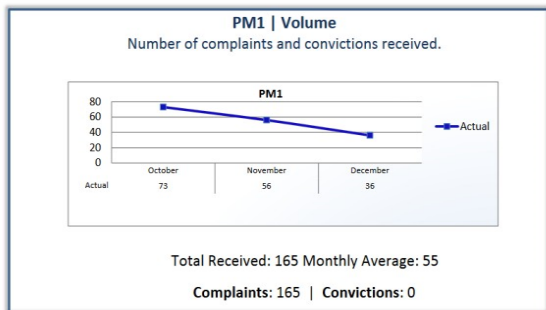
To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



## Performance Measures

### Q2 Report (October - December 2013)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.





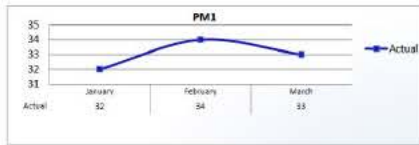
## Performance Measures

### Q3 Report (January - March 2014)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.



Total Received: 99 Monthly Average: 33

Complaints: 98 | Convictions: 1

#### PM2 | Intake

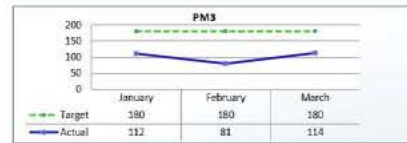
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 15 Days

#### PM3 | Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 180 Days | Actual Average: 105 Days

#### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 459 Days

## Performance Measures

### Q4 Report (April - June 2014)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.



Total Received: 130 Monthly Average: 43

Complaints: 130 | Convictions: 0

#### PM2 | Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 19 Days

#### PM3 | Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 180 Days | Actual Average: 135 Days

#### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).

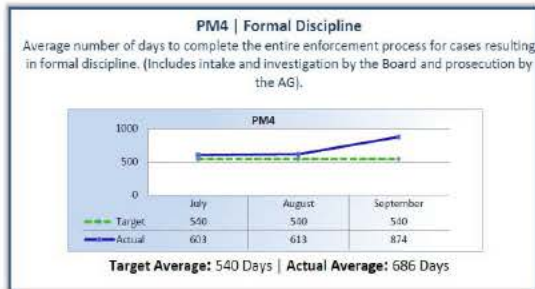
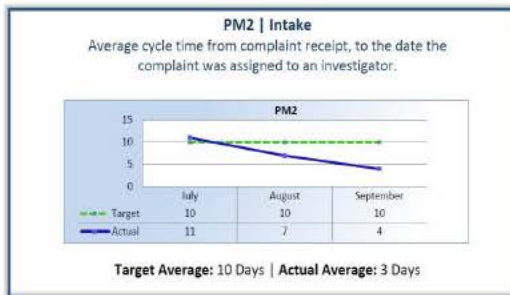
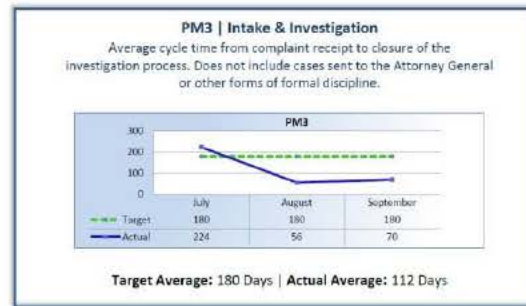


Target Average: 540 Days | Actual Average: 857 Days

## Performance Measures

### Q1 Report (July - September 2014)

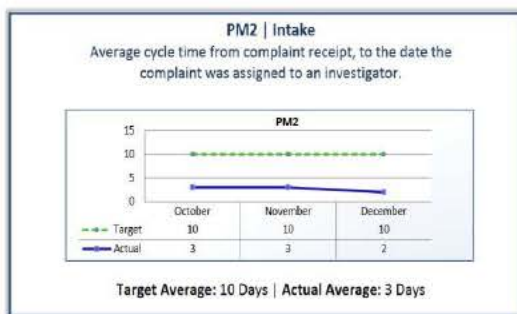
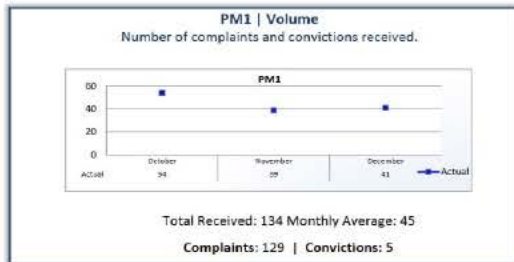
To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



## Performance Measures

### Q2 Report (October - December 2014)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



## Performance Measures

### Annual Report (2013 – 2014 Fiscal Year)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly and annual basis.

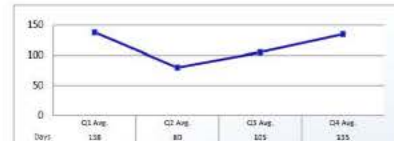
#### PM1 | Volume

Number of complaints and convictions received.



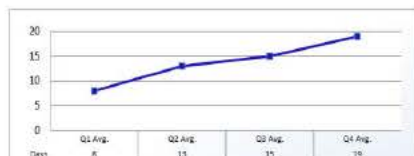
#### PM3 | Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



#### PM2 | Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



#### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



## Performance Measures

### Q3 Report (January - March 2015)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.



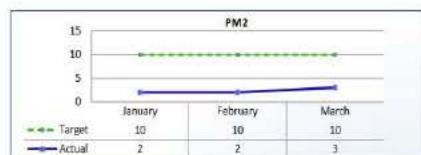
#### PM3 | Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



#### PM2 | Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



#### PM4 | Formal Discipline

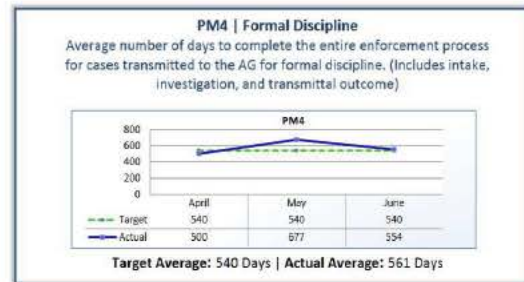
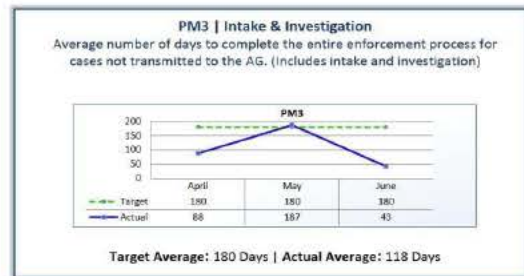
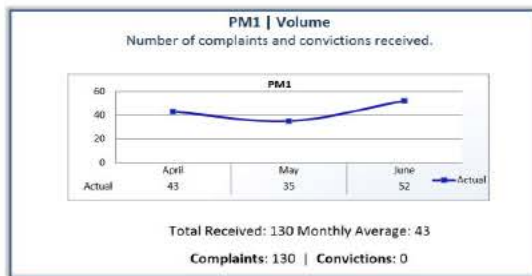
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



## Performance Measures

### Q4 Report (April - June 2015)

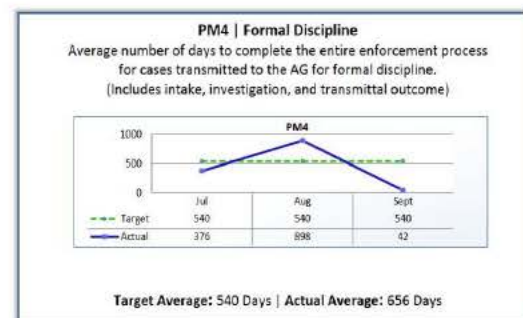
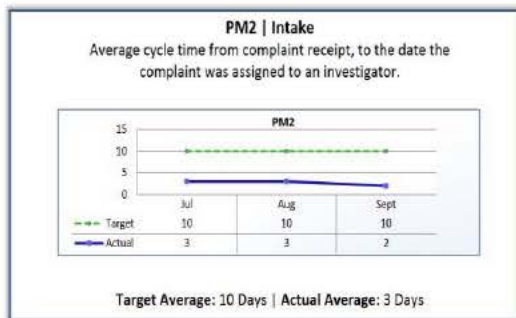
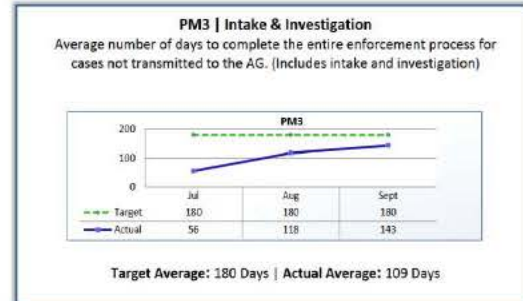
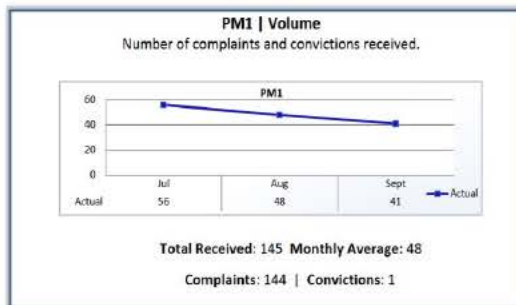
To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



## Performance Measures

### Q1 Report (July - September 2015)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.





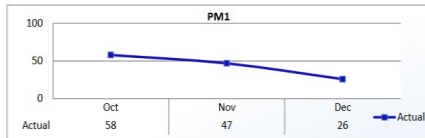
## Performance Measures

### Q2 Report (October - December 2015)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

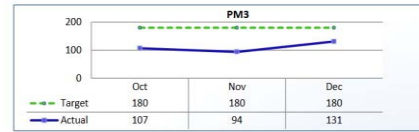


Total Received: 131 Monthly Average: 44

Complaints: 131 | Convictions: 0

#### PM3 | Intake & Investigation

Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 180 Days | Actual Average: 109 Days

#### PM2 | Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 2 Days

#### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 640 Days

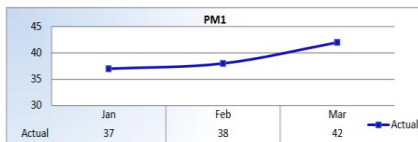
## Performance Measures

### Q3 Report (January - March 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

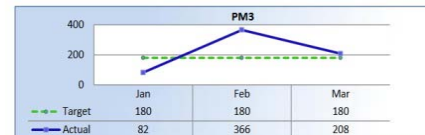


Total Received: 117 Monthly Average: 39

Complaints: 116 | Convictions: 1

#### PM3 | Intake & Investigation

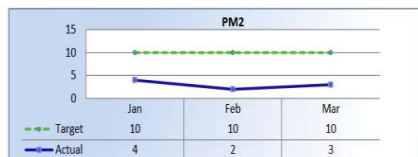
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 180 Days | Actual Average: 272 Days

#### PM2 | Intake

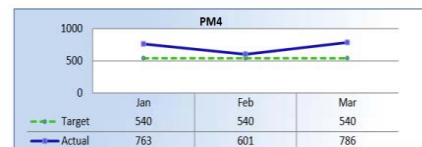
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 3 Days

#### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



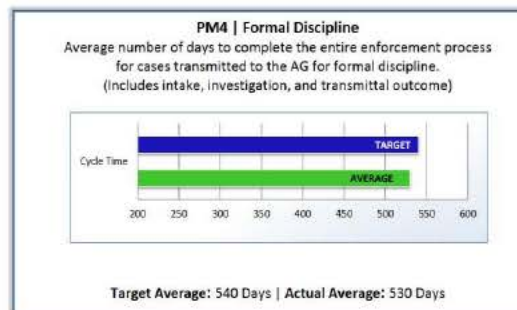
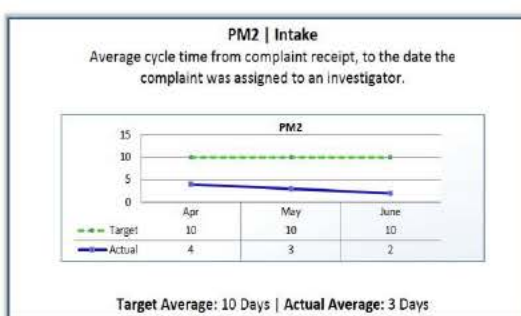
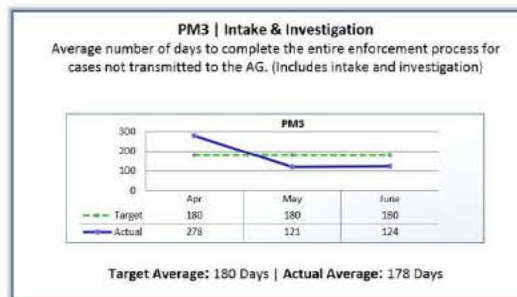
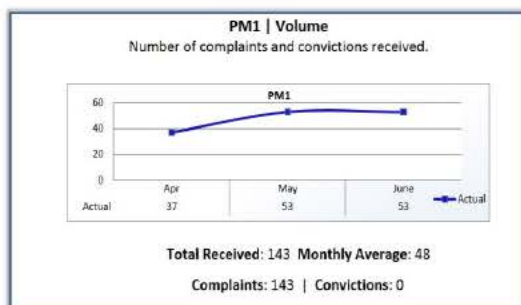
Target Average: 540 Days | Actual Average: 667 Days



## Performance Measures

### Q4 Report (April - June 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



## MEASUREMENTS BY FISCAL YEARS 2015 AND 2016

### 1. Intake Cycle Time

The following represents the total number of complaint cases received and assigned for investigation and the average number of days (cycle time) from receipt of a complaint to the date the complaint was assigned for investigation or closed without being referred for investigation. A complaint may not be referred for investigation for a variety of reasons, such as lack of jurisdiction. The DCA and the program use this data to measure the efficiency of the program's internal complaint intake process.

1111 – Department of Consumer Affairs Regulatory Boards						
Program		Target	FY 2014-15		FY 2015-16	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)
1230	Structural Pest Control Board	10	588	5	575	3

### 2. Intake and Investigation Cycle Time

The following table represents the total number of cases investigated, but are not referred to the AG, and the average number of days (cycle time) from receipt of a complaint to the closure of the case. The DCA and the program use this data to measure how efficient a program is in completing the intake, investigating, and processing the disciplinary/ administrative actions for cases not required to be referred to the AG.

1111 – Department of Consumer Affairs Regulatory Boards						
Program		Target	FY 2014-15		FY 2015-16	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time
1230	Structural Pest Control Board	180	473	122	640	177

### 3. Formal Discipline Cycle Time

The following table represents the total number of formal disciplinary/administrative action cases referred to the AG and the average number of days (cycle time) from receipt of the complaint to the closure of the case. The cycle time in this measure includes intake and investigation by the program, and all efforts associated with the disciplinary/administrative action process, which may include the services of the Office of Administrative Hearings. The DCA and the program use this data to measure how efficient a program is in completing the intake, investigating, and processing the disciplinary/administrative actions for cases that require referral to the AG.

1111 – Department of Consumer Affairs Regulatory Boards						
Program		Target	FY 2014-15		FY 2015-16	
		Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time (Days)	# of Cases	Avg. Cycle Time
1230	Structural Pest Control Board	540	61	595	62	556

**REMAINDER OF PAGE LEFT INTENTIONALLY  
BLANK**

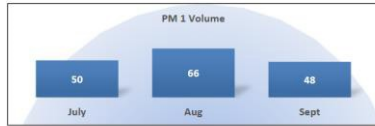
## Enforcement Performance Measures

### Q1 Report (July - September 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.



Total Received: 164 | Monthly Average: 55

Complaints: 160 | Convictions: 4

#### PM3 | Investigations – Cycle Time

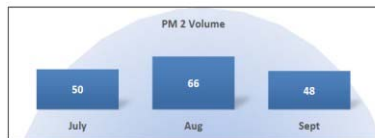
Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General. (Includes intake and investigation)



Target Average: 180 Days | Actual Average: 109 Days

#### PM2 | Intake – Volume

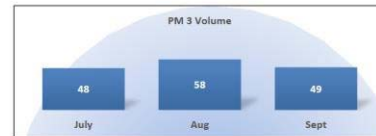
Number of complaints closed or assigned to an investigator.



Total: 164 | Monthly Average: 55

#### PM3 | Investigations – Volume

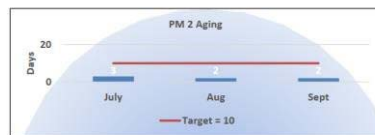
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 155 | Monthly Average: 52

#### PM2 | Intake – Cycle Time

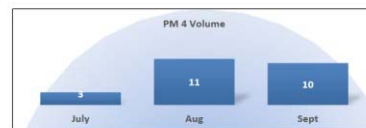
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



Target Average: 10 Days | Actual Average: 2 Days

#### PM4 | Formal Discipline – Volume

Cases closed, of those transmitted to the Attorney General.



Total: 24 | Monthly Average: 8

#### PM4 | Formal Discipline – Cycle Time

Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General. (Includes intake, investigation, and case outcome.)



Target Average: 540 Days | Actual Average: 567 Days

## Enforcement Performance Measures

### Q2 Report (October - December 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.



Total Received: 128 | Monthly Average: 42

Complaints: 127 | Convictions: 1

#### PM3 | Investigations – Cycle Time

Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General. (Includes intake and investigation.)



Target Average: 180 Days | Actual Average: 94 Days

#### PM2 | Intake – Volume

Number of complaints closed or assigned to an investigator.



Total: 128 | Monthly Average: 43

#### PM3 | Investigations – Volume

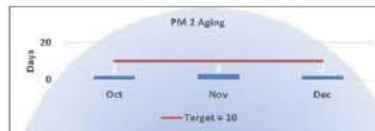
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 98 | Monthly Average: 33

#### PM2 | Intake – Cycle Time

Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



Target Average: 10 Days | Actual Average: 2 Days

#### PM4 | Formal Discipline – Volume

Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



Total: 21 | Monthly Average: 7

#### PM4 | Formal Discipline – Cycle Time

Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General. (Includes intake, investigation, and case outcome.)

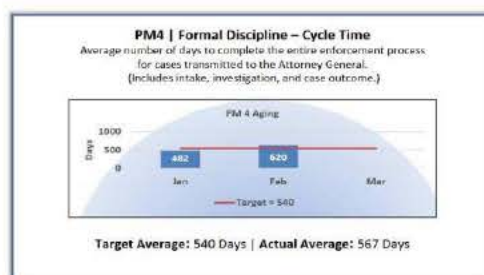
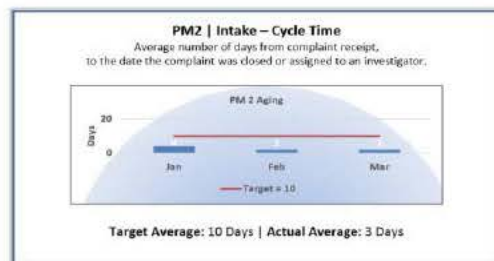
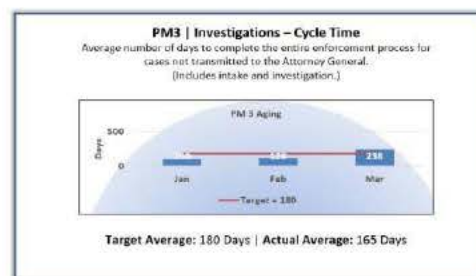


Target Average: 540 Days | Actual Average: 435 Days

## Enforcement Performance Measures

### Q3 Report (January – March 2017)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

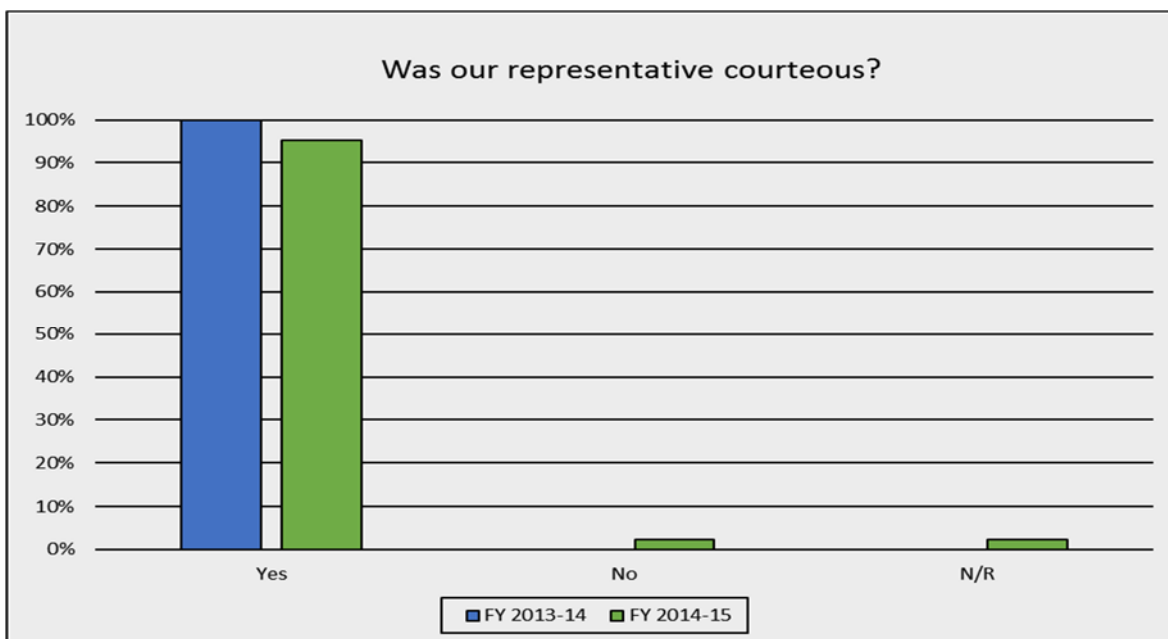
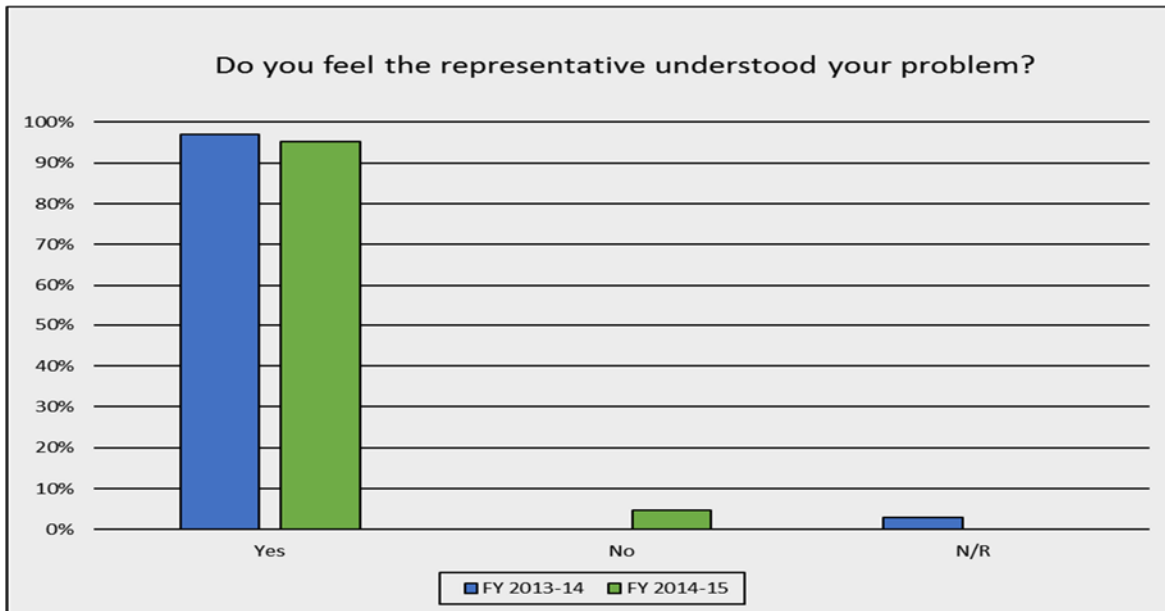




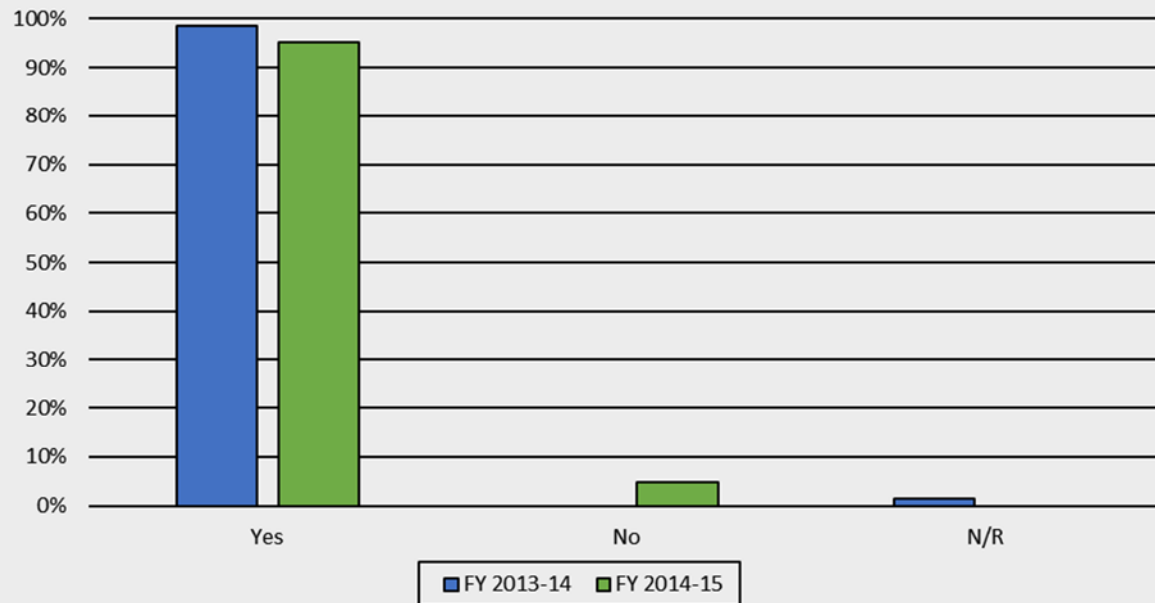
Note: Fiscal Year 16/17 Quarter 4 and Annual Report currently are not posted on DCA's website.

**7. Provide results for each question in the board's customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.**

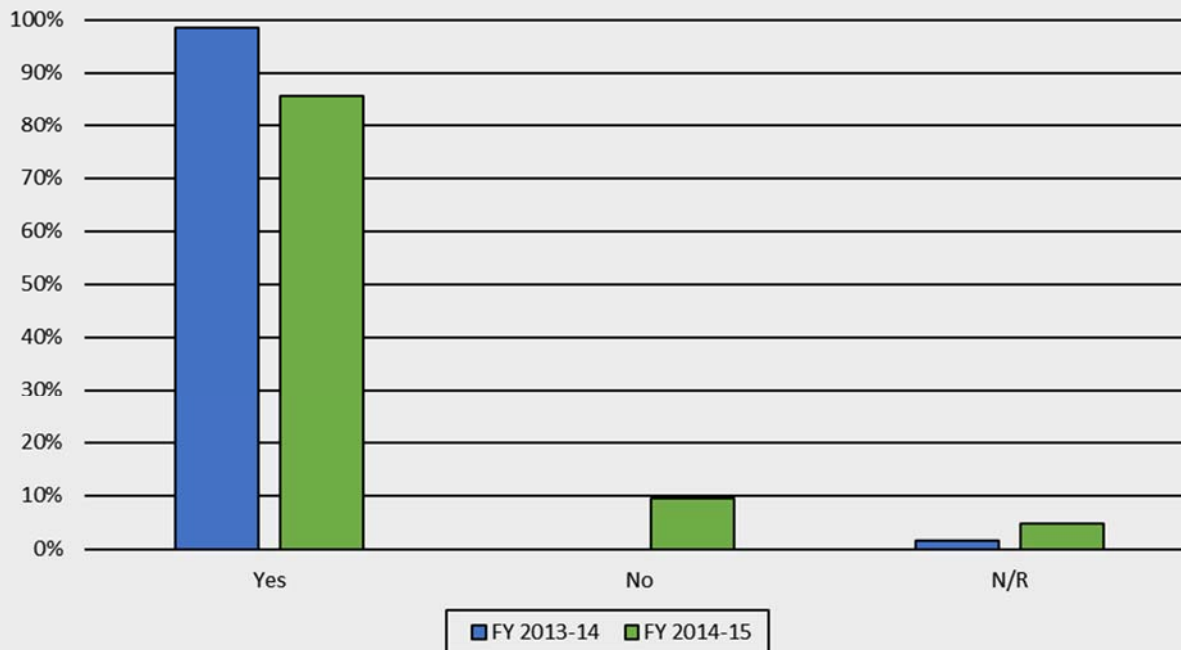
Note: N/R means no response.

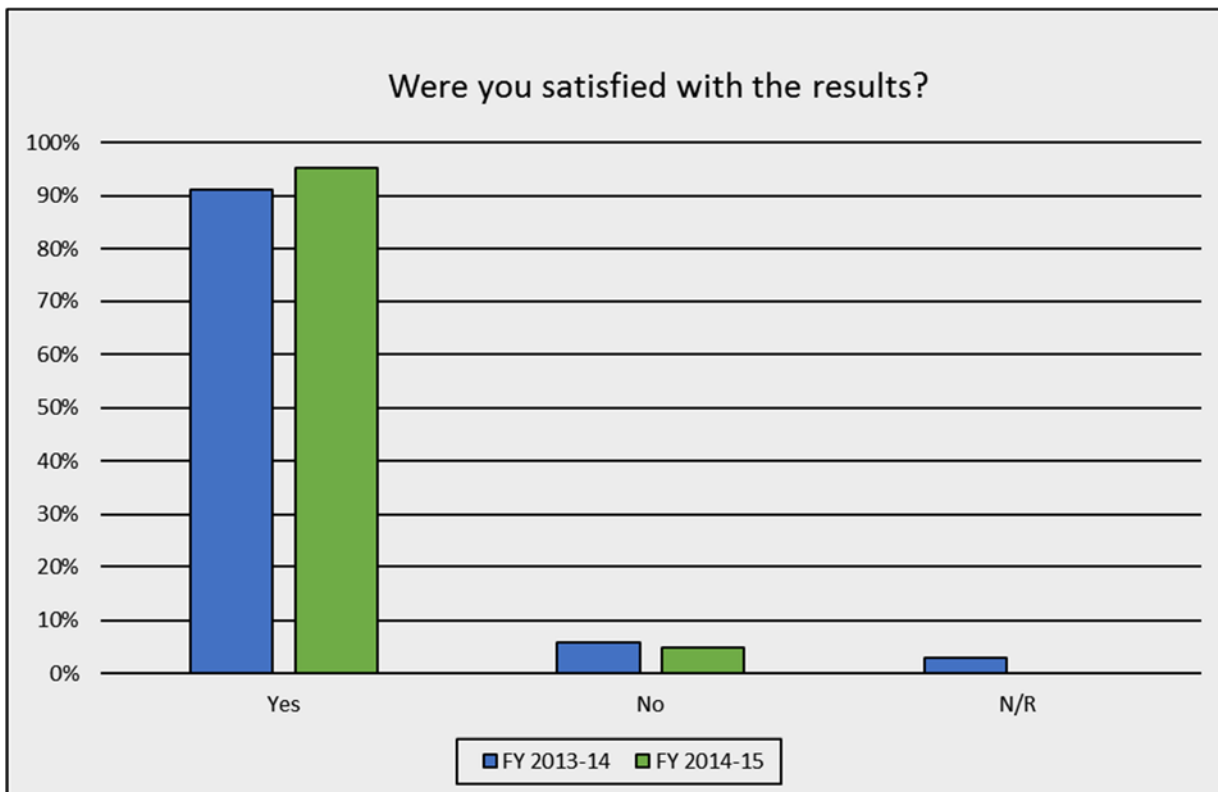
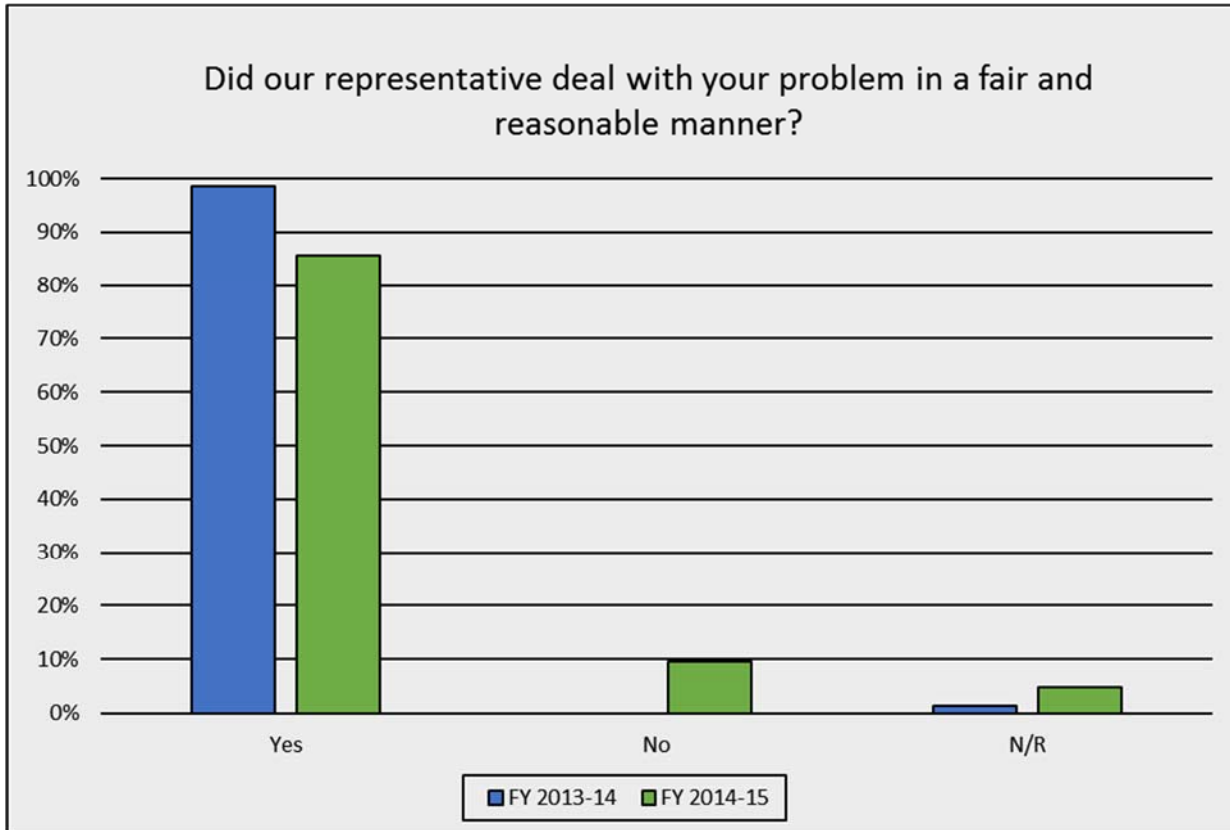


Did our representative fully explain our role and jurisdiction over your problem?

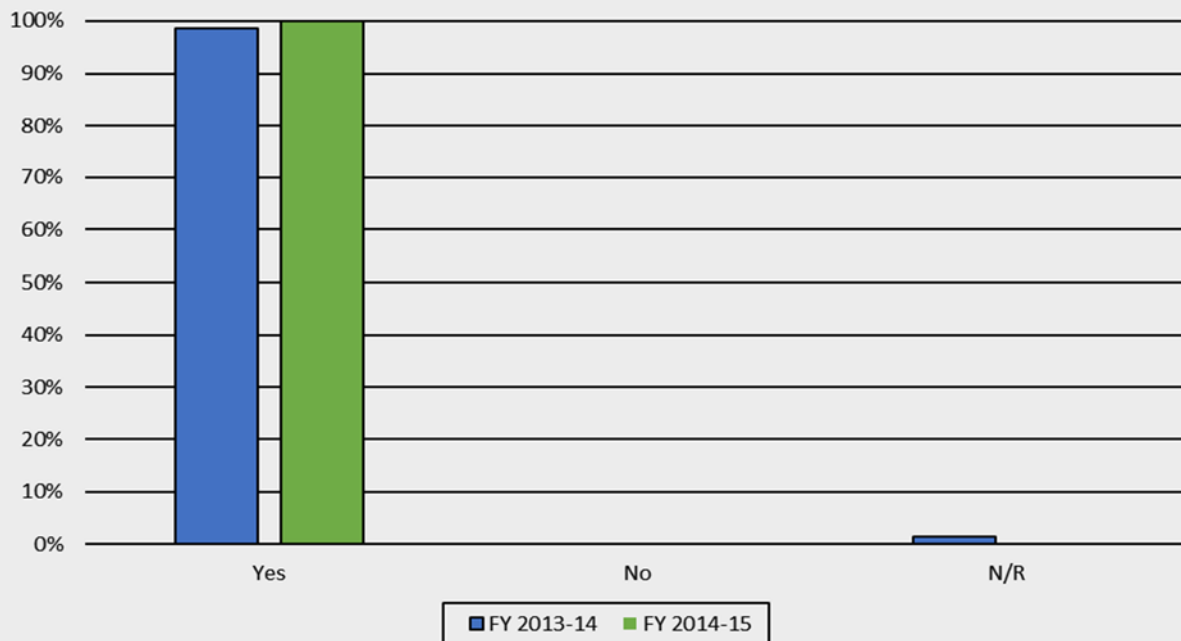


Did our representative deal with your problem in a fair and reasonable manner?

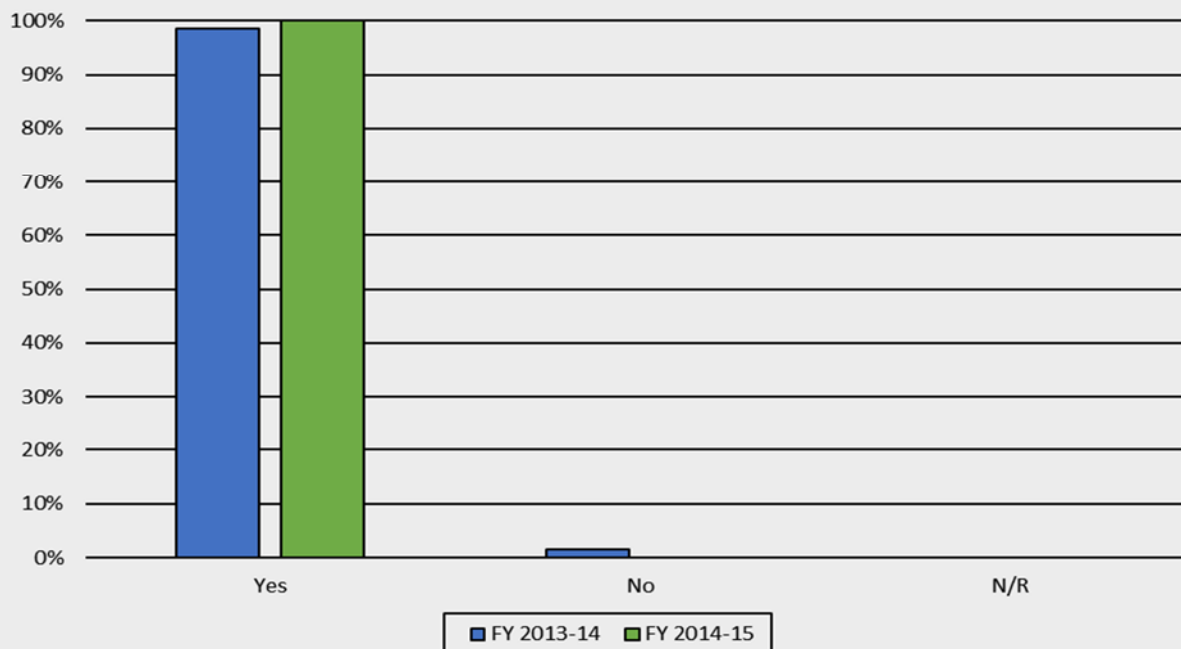


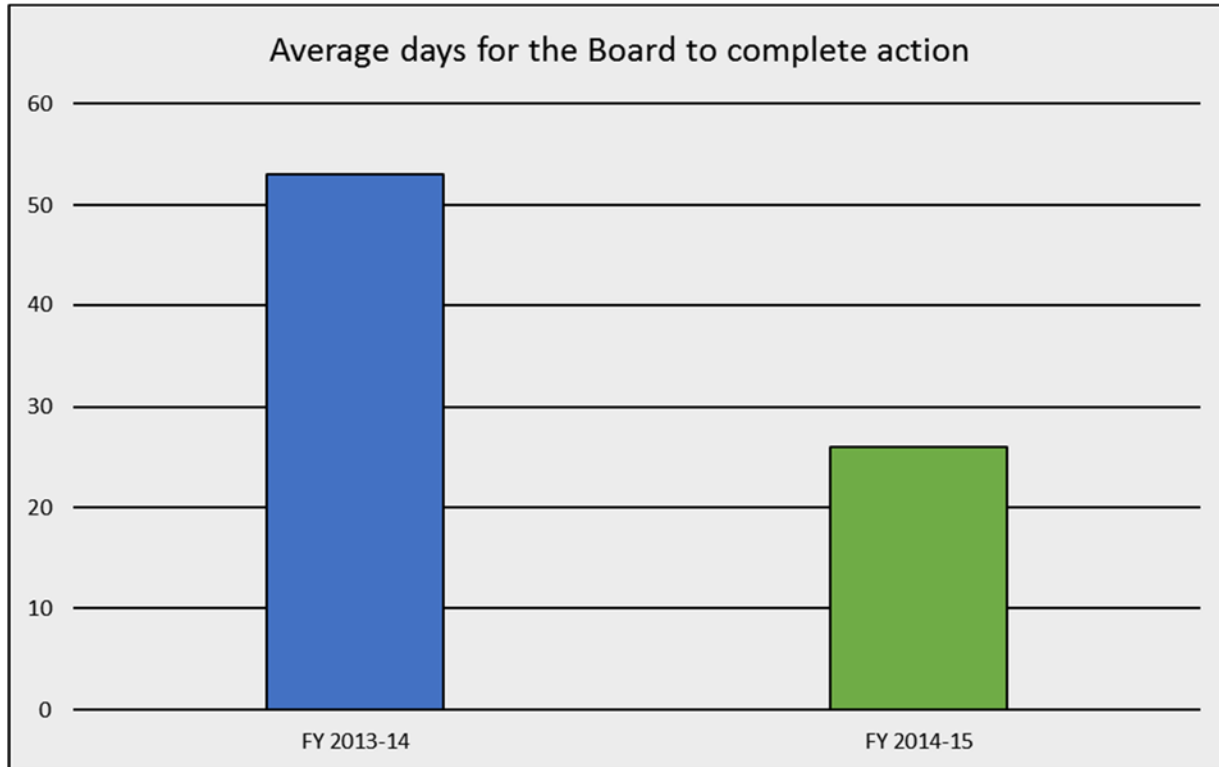


If you experience structural pest control problems in the future, would you contact the Board?

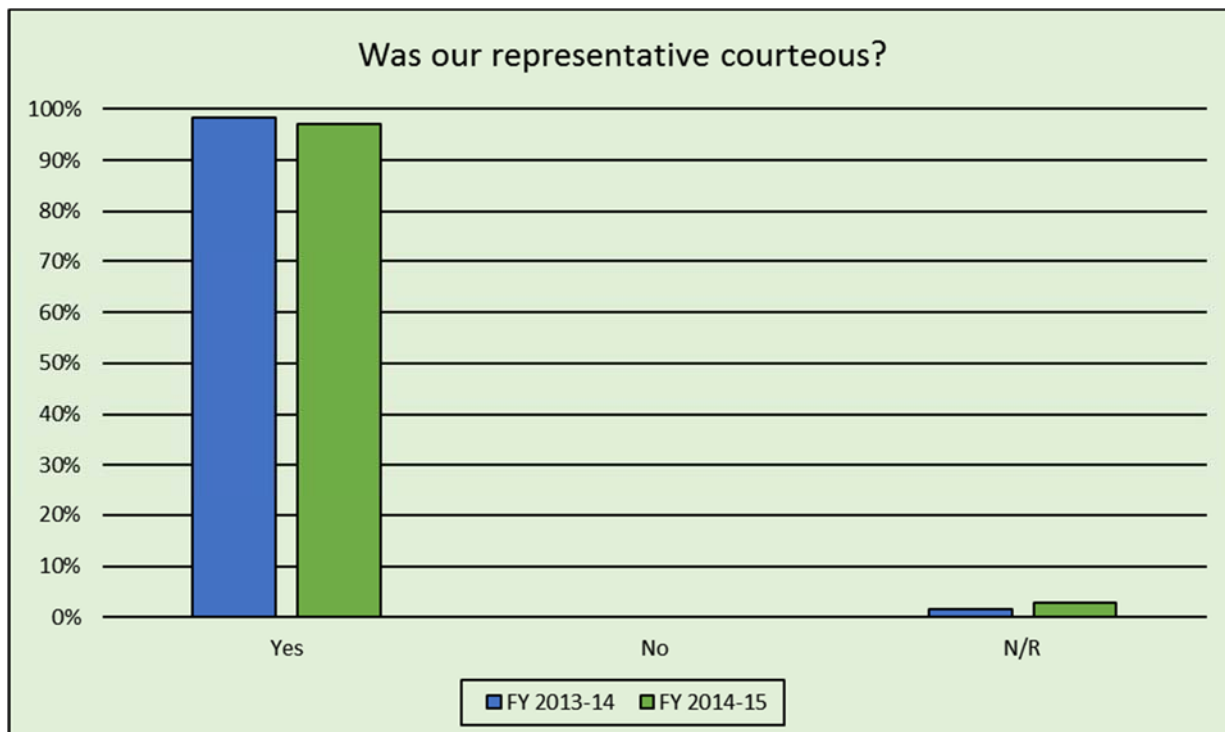


Will you recommend our services to others?

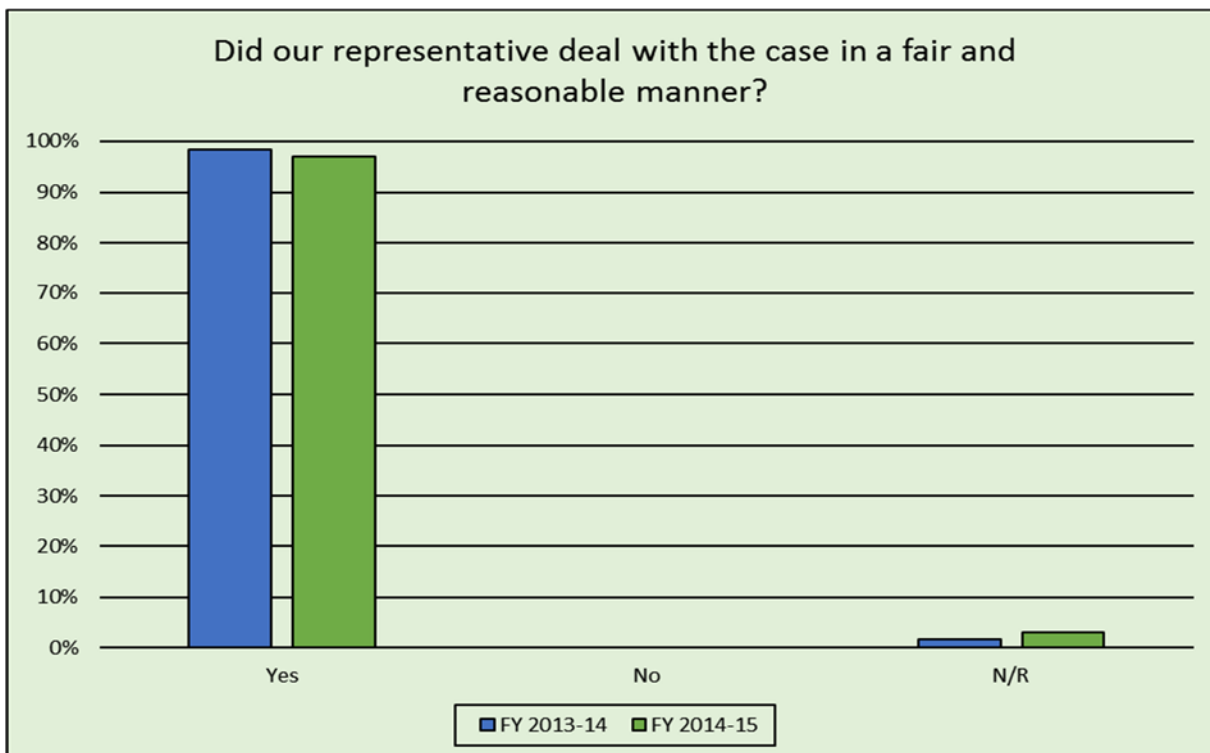
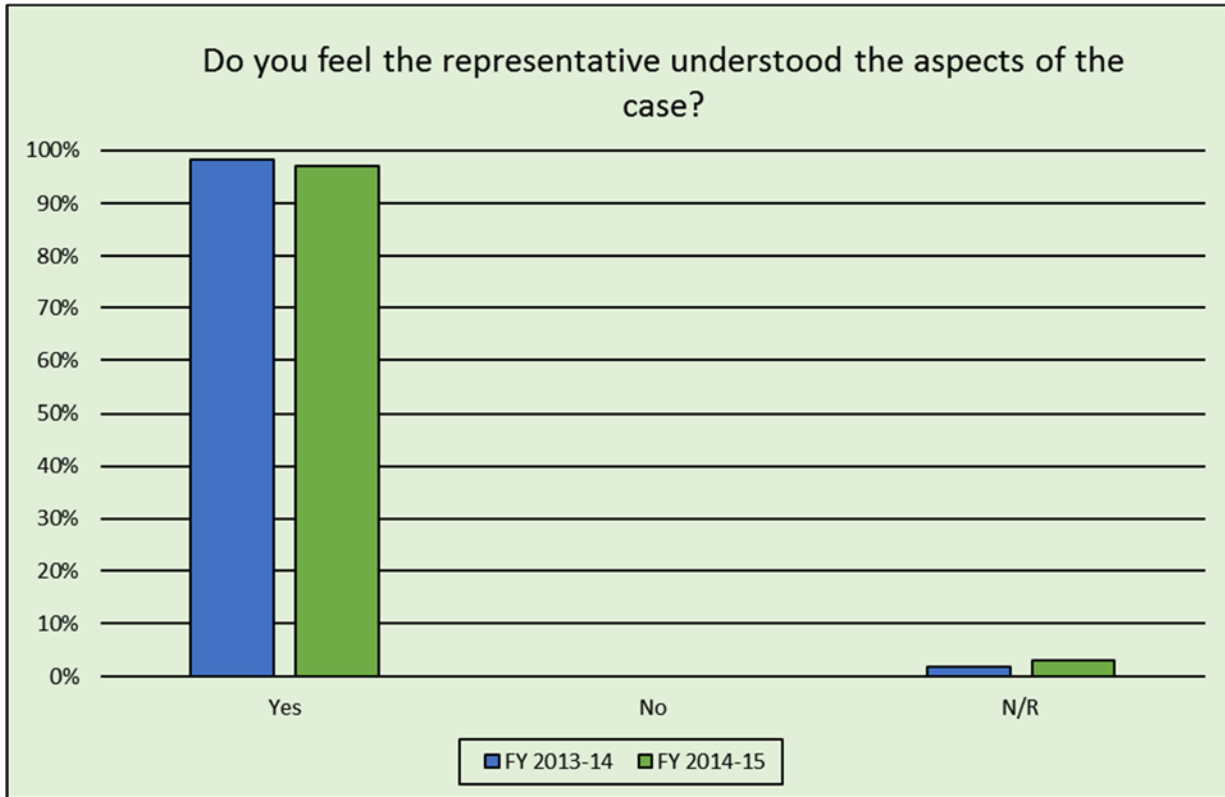


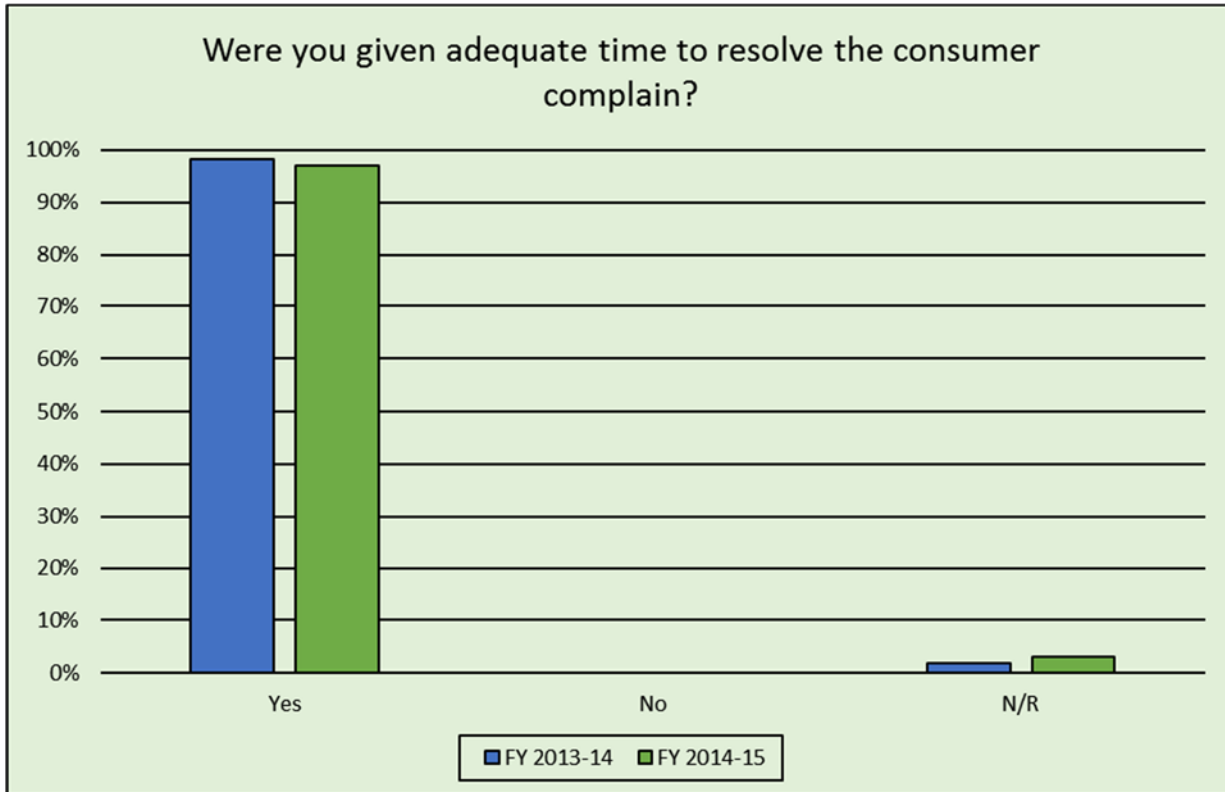


The results for the above, Fiscal Years 13/14 and 14/15, were derived from Board Meeting documents. They represent **Consumer** surveys.



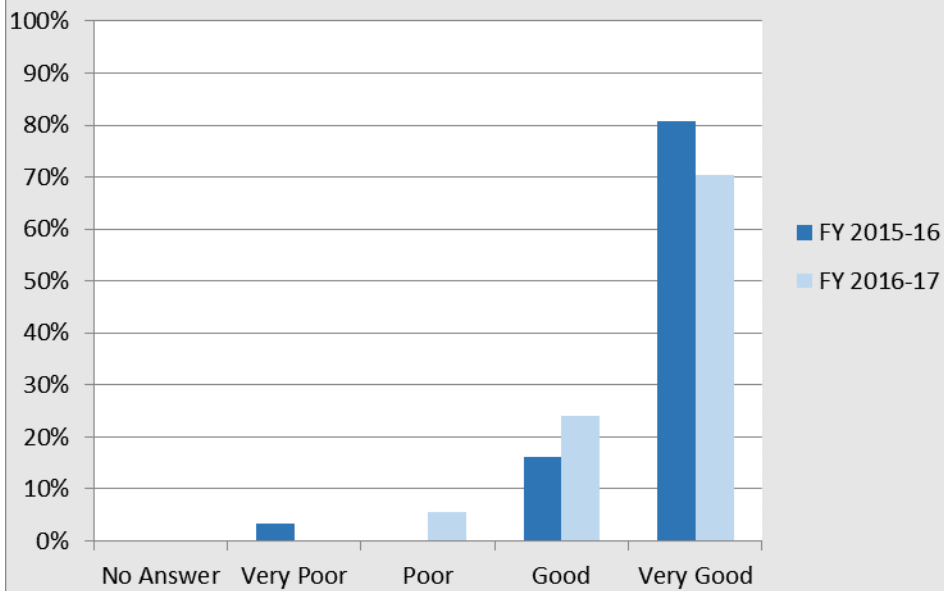




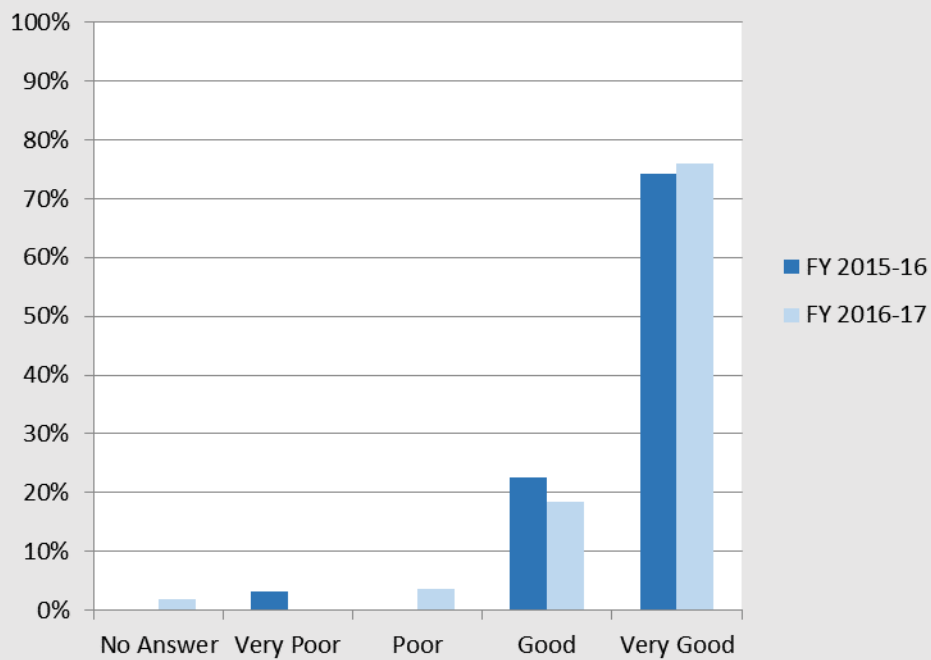


Beginning January 1, 2015, SOLID began conducting surveys on behalf of the Department of Consumer Affairs. SOLID survey results are noted on the next page.

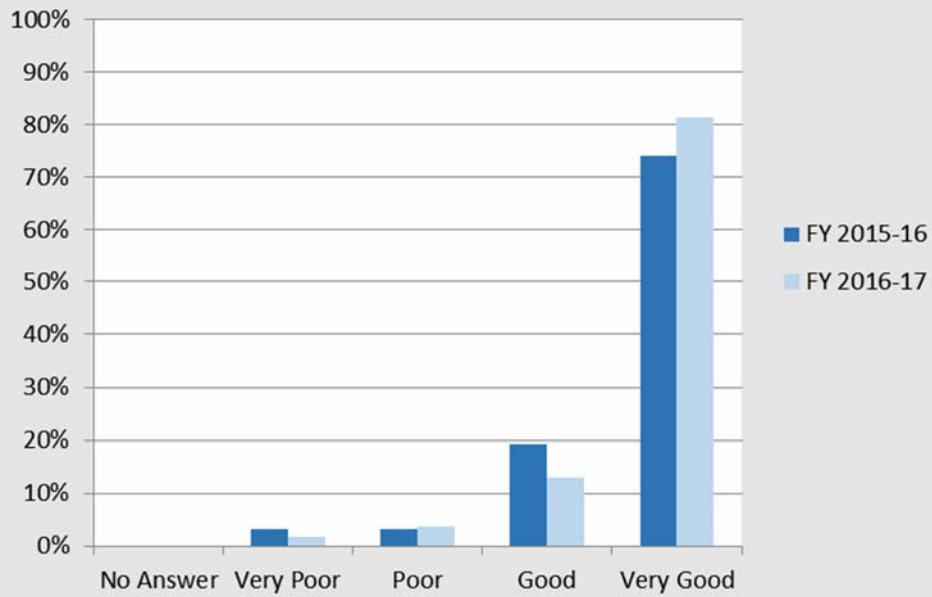
### How well did we explain the complaint process to you?



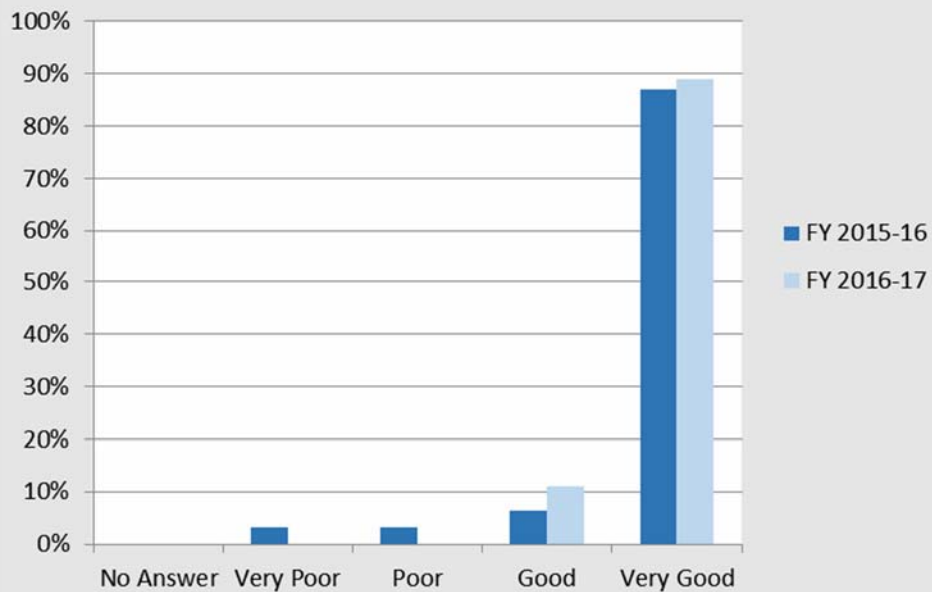
### How clearly was the outcome of your complaint explained to you?



### How well did we meet the time frame provided to you?

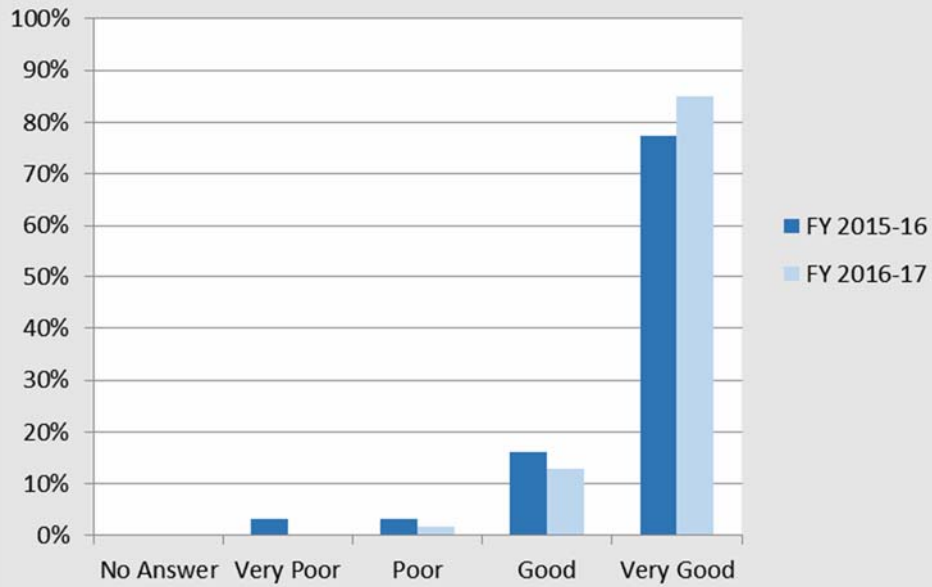


### How courteous and helpful was staff?

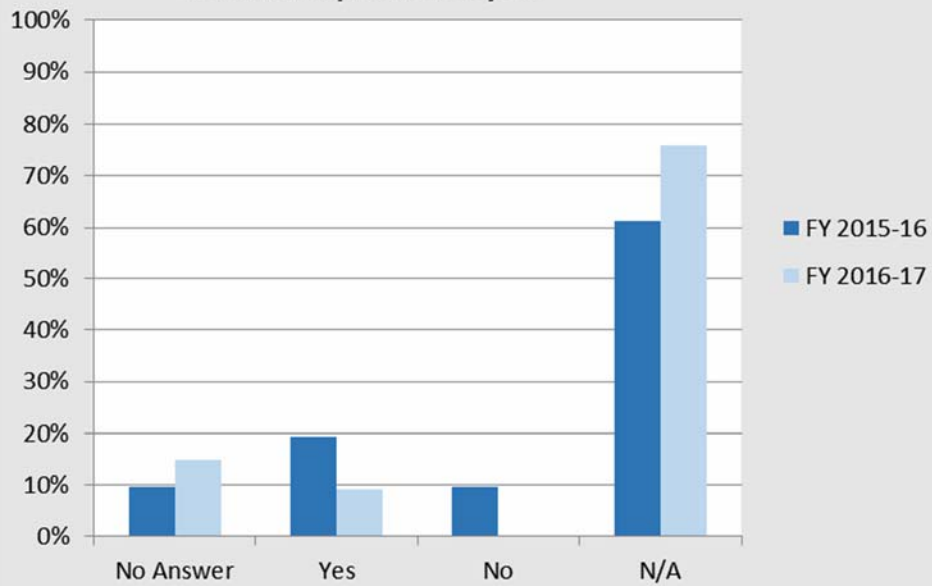


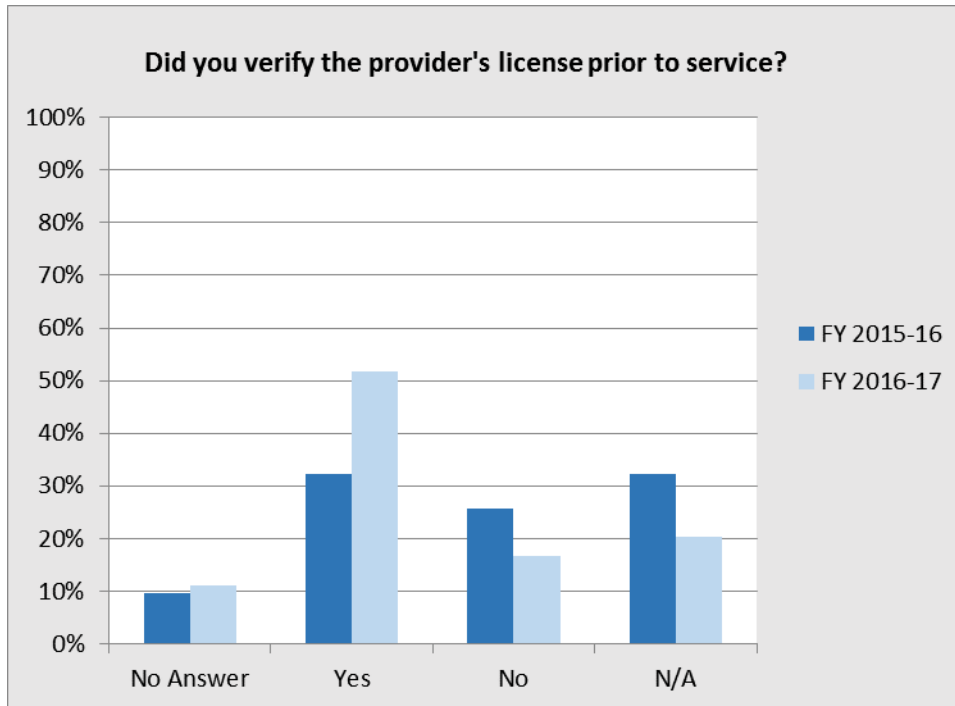


**Overall, How well did we handle your complaint?**



**If we were unable to assist you, were alternatives provided to you?**





## Section 3 – Fiscal and Staff

### Fiscal Issues

- 8. Is the board's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.**

The Board administers three funds: 1) Structural Pest Control Fund (Fund Number 0775), 2) Structural Pest Control Education and Enforcement Fund (Fund Number 0399), and 3) Structural Pest Control Research Fund (Fund Number 0168). The Board's Structural Pest Control Fund and Education and Enforcement fund are appropriated by the Legislature. The Board's Research Fund is continuously appropriated pursuant to Business and Professions Code section 8674(t)(1).

- 9. Describe the board's current reserve level, spending, and if a statutory reserve level exists.**

As specified in Business and Professions Code Section 8674 (t)(2)(E), the Board shall maintain "a reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program." The board maintains a current contingent fund level of 24 months or less for economic uncertainties and to support unencumbered balances of continuing appropriations. Each fiscal year the Board determines its fund balance by adding the difference between its actual current fiscal year's expenditures and revenues to its beginning fund balance. This fund balance (or reserve) is then

apportioned into the next fiscal year cycle.

Business and Professions Code section 128.5 limits to a fund balance reserve of 24 months or less.

**10. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.**

The Board does not anticipate a budget deficit in the current year nor forecasts a budget deficit in fiscal years 2017-18 or 2018-19. No fee changes are planned.

**Table 2. Fund Condition**

(Dollars in Thousands)	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18*	FY 2018/19*
Beginning Balance	\$1,409	\$1,831	\$2,275	\$2,176	\$2,154	\$1,526
Revenues and Transfers	\$3,981	\$4,367	\$4,615	\$4,566	\$4,657	\$4,750
<b>Total Revenue</b>	\$3,981	\$4,367	\$4,615	\$4,566	\$4,657	\$4,750
Budget Authority	\$4,474	\$4,508	\$5,071	\$4,788	\$4,869	\$4,966
Expenditures**	\$3,636	\$3,994	\$4,841	\$4,361	\$4,869	\$4,966
Loans to General Fund	N/A	N/A	N/A	N/A	N/A	N/A
Accrued Interest, Loans to General Fund	N/A	N/A	N/A	N/A	N/A	N/A
Loans Repaid from General Fund	N/A	N/A	N/A	N/A	N/A	N/A
<b>Fund Balance</b>	\$1,734	\$2,201	\$2,041	\$2,154	\$1,617	\$1,082
<b>Months in Reserve</b>	5.2	5.4	5.3	5.0	3.7	2.4

\*Projected

\*\*Board expenditures only. Does not include disbursements to other state agencies.

**11. Describe the history of general fund loans. When were the loans made? When have payments been made to the board? Has interest been paid? What is the remaining balance?**

The Board has not issued any general fund loans in the preceding four fiscal years.

**12. Describe the amounts and percentages of expenditures by program component.**

Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.



**Table 3. Expenditures by Program Component**

(list dollars in thousands)

	FY 2013/14		FY 2014/15		FY 2015/16		FY 2016/17	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$728	\$751	\$825	\$708	\$908	\$1,021	\$946	\$622
Licensing & Examination	\$495	\$332	\$561	\$383	\$617	\$562	\$644	\$386
Administration *	\$583	\$193	\$652	\$194	\$710	\$289	\$739	\$126
DCA Pro Rata	N/A	\$555	N/A	\$671	N/A	\$734	N/A	\$898
Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>TOTALS</b>	<b>\$1,806</b>	<b>\$1,830</b>	<b>\$2,038</b>	<b>\$1,956</b>	<b>\$2,235</b>	<b>\$2,606</b>	<b>\$2,329</b>	<b>\$2,032</b>

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

### **Structural Pest Control Board Funds**

The Board administers three funds: 1) Structural Pest Control Fund (Fund Number 0775), 2) Structural Pest Control Education and Enforcement Fund (Fund Number 0399), and 3) Structural Pest Control Research Fund (Fund Number 0168). The Board's Structural Pest Control Fund and Education and Enforcement fund are appropriated by the Legislature. The Board's Research Fund is continuously appropriated pursuant to Business and Professions Code section 8674(t)(1).

The Support Fund (Structural Pest Control Fund) is the primary fund for the Board, accounting for approximately 75 percent of the Board's annual budget. The Support Fund, as a primary revenue source, is supported by Wood-Destroying Pests and Organisms (WDO) filing fees. Unlike most professional licensing boards, the Board's primary funding is not generated from licensing fees. In fact, the Board only charges a licensing fee of \$10 (its lowest licensing fee) for its second largest class of licensees – the Applicators. Rather, the Board generates the vast majority of its revenue from the aforementioned WDO activity filing fees, which is a small fee (\$2.50) that's assessed each time a pest control company inspects a property or completes work on a property.

The following is a workload and revenue breakdown of each fund administered by the Board.

<b>Support Fund</b>						
		<b>Actual Workload</b>				
		<b>13-14</b>	<b>14-15</b>	<b>15-16</b>	<b>16-17</b>	
125600-SN	WDO Filing Fee	1,334,994	1,384,445	1,367,539	1,412,819	\$2.50
125600-XA	Duplicate Lic/Cert.	775	705	811	753	\$2.00
125600-XG	Penalty Assessments	VARIOUS	VARIOUS	VARIOUS	VARIOUS	VARIOUS



125600-XL	Change of Reg. Co. Officers	23	32	30	29	\$25.00
125600-XM	Change of Bond & Insurance	326	44	172	115	\$25.00
125600-XN	Continuing Ed. Course Approval	447	378	446	428	\$25.00
125600-XP	Continuing Ed. Provider	8	14	7	1	\$50.00
125600-XY	Cite and Fine	VARIOUS	VARIOUS	VARIOUS	VARIOUS	VARIOUS
125600-X2	Change of PR Office Address	266	255	258	274	\$25.00
125600-X3	Change of Branch Office	18	21	37	22	\$25.00
125600-X4	Change of Qualifying Manager	135	121	131	102	\$25.00
125600-X5	Change of Reg. Company	14	12	18	12	\$25.00
125700-I2	Operator Exam Fee		244	456	431	\$65.00
125700-I3	Field Representative		3,003	5,950	6,077	\$50.00
125700-I4	Applicator Exam Fee		2,052	3,937	3,960	\$55.00
125700-XA	Exam Fee-Operator	629	268			
125700-XC	Exam Fee-Field	5,607	2,497			
125700-I5	Cont. Ed. Challenge Exam			1	0	\$65.00
125700-I6	Cont. Ed. Challenge Exam			3	5	\$50.00
125700-I7	Cont. Ed. Challenge Exam			2	2	\$55.00
125700-XH	Cont. Ed. Exam BR Operator	4	0			\$25.00
125700-XJ	Cont. Ed. Exam BR Field	5	0			\$10.00
125700-XK	Company Registration	281	243	241	258	\$120.00
125700-XL	Original License-Field Representative	721	1006	1,666	1,926	\$30.00
125700-XM	Branch Office Registration	49	39	45	39	\$60.00
125700-2W	Original License-	2125	1172	1,465	1,493	\$10.00
125700-2Y	Original License-	188	153	187	173	\$120.00
125800-XB	Triennial Renewal-Field	2901	2363	2,625	2,602	\$30.00
125800-1F	Triennial Renewal-	599	377	282	712	\$10.00

125800-1G	Triennial Renewal-	1070	1072	1,226	1,120	\$120.00
125900-BM	Delinq Renewal-	150	109	32	78	\$5.00
125900-BN	Delinq Renewal-	55	54	33	44	\$60.00
125900-XD	Delinq Renewal-Field	156	147	149	140	\$15.00
142500	Misc. Services to the Public	VARIOUS	VARIOUS	VARIOUS	VARIOUS	VARIOUS
161400	Misc. Rev.	VARIOUS	VARIOUS	VARIOUS	VARIOUS	VARIOUS
		<b>1,351,546</b>	<b>1,400,826</b>	<b>1,387,749</b>	<b>1,433,615</b>	
		<b>\$3,759,651</b>	<b>\$4,361,975</b>	<b>\$4,605,641</b>	<b>\$4,551,383</b>	

#### Education & Enforcement Fund

		Actual Workload				
		13-14	14-15	15-16	16-17	
125600-XD	Pesticide Report Filing Fee	69,714	69,952	73,580	71,411	\$4.00
125600-XF	Pesticide Fines	112,014	125,025	179,695	140,702	VARIOUS
		<b>69,714</b>	<b>69,952</b>	<b>73,580</b>	<b>71,411</b>	
		<b>\$390,480</b>	<b>\$405,073</b>	<b>\$474,169</b>	<b>\$424,314</b>	

#### Research Fund

		Actual Workload				
		13-14	14-15	15-16	16-17	
125600X9	Pesticide Use Stamps	69,714	69,952	73,580	71,411	\$2.00
		<b>69,714</b>	<b>69,952</b>	<b>73,580</b>	<b>71,411</b>	
		<b>\$141,253</b>	<b>\$139,774</b>	<b>\$147,162</b>	<b>\$143,190</b>	

\*Applicator exam fee and Challenge exam fee increased from \$15 to \$55 effective January 1, 2015

\*\*Field Representative Exam Fee & Challenge exam fee increased from \$10 to \$50 effective January 1, 2015

\*\*\*Operator Exam Fee and Challenge exam fee increased from \$25 to \$65 effective January 1, 2015

### 13. Describe the amount the board has contributed to the BreEZe program. What are the anticipated BreEZe costs the board has received from DCA?

The Board has incurred \$218,422 since Fiscal Year 2009-10 through Fiscal Year 2016-17 as it pro rata costs to support the BreEZe project. For 2016-17, DCA estimates the Board's costs to be \$49,409, all totaling \$267,831.

### 14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.



Applicator, Field Representative and Operator license renewal fees are due triennially based from the day of issuance. The assessment of fees is authorized under 8674 of Business and Professions code. Implementation of those fees is outlined in California Code of Regulations, Section 1948.

**Table 4. Fee Schedule and Revenue**

Fee	Current Fee Amount	Statutory Limit	FY 2013/14 Revenue	% of Total Revenue	FY 2014/15 Revenue	% of Total Revenue	FY 2015/16 Revenue	% of Total Revenue	FY 2016/17 Revenue	% of Total Revenue
WDO Filing	\$2 50	\$2 50	\$3,337,485 00	79.19%	\$3,411,112 50	78.00%	\$3,418,847 50	74.05%	\$3,532,047 50	75.50%
Duplicate License	\$2	\$2	\$1,550 00	0.04%	\$1,410 00	0.03%	\$1,622 00	0.04%	\$1,506 00	0.03%
Operator's Examination	\$25	\$25	\$15,725 00	0.37%	\$12,800 00	0.29%	\$11,400 00	0.25%	\$10,775 00	0.25%
Operator's License - Original	\$120	\$150	\$22,560 00	0.54%	\$18,360 00	0.42%	\$22,440 00	0.49%	\$20,760 00	0.47%
Operator's Renewal	\$120	\$120	\$128,400 00	3.05%	\$128,640 00	2.94%	\$147,120 00	3.19%	\$134,400 00	3.07%
Company Office Registration	\$120	\$120	\$33,720 00	0.80%	\$29,160 00	0.67%	\$28,920 00	0.63%	\$30,960 00	0.71%
Branch Office Registration	\$60	\$60	\$2,940 00	0.07%	\$2,340 00	0.05%	\$2,700 00	0.06%	\$2,340 00	0.05%
Field Representative's Examination	\$10	\$15	\$56,070 00	1.33%	\$55,000 00	1.26%	\$59,500 00	1.29%	\$60,770 00	1.39%
Field Representative's License	\$30	\$45	\$21,630 00	0.51%	\$30,180 00	0.69%	\$49,980 00	1.08%	\$57,780 00	1.32%
Renewal Field Representative's License	\$30	\$45	\$87,030 00	2.06%	\$70,890 00	1.62%	\$78,750 00	1.71%	\$78,060 00	1.79%
Change Of Registered Company's Name	\$25	\$25	\$350.00	0.01%	\$300.00	0.01%	\$450.00	0.01%	\$300.00	0.01%
Change Of Principal Office Address	\$25	\$25	\$6,650 00	0.16%	\$6,375 00	0.15%	\$6,450 00	0.14%	\$6,850 00	0.16%
Change Of Branch Office Address	\$25	\$25	\$450.00	0.01%	\$525.00	0.01%	\$925.00	0.02%	\$550.00	0.01%
Change Of Qualifying Manager	\$25	\$25	\$3,375 00	0.08%	\$3,025 00	0.07%	\$3,275 00	0.07%	\$2,550 00	0.06%
Change Of Registered Company's Officers	\$25	\$25	\$575.00	0.01%	\$800.00	0.02%	\$750.00	0.02%	\$725.00	0.02%
Change Of Bond Or Insurance	\$25	\$25	\$8,150 00	0.19%	\$1,100 00	0.03%	\$4,300 00	0.09%	\$2,875 00	0.07%
Continuing Education Provider	\$50	\$50	\$400.00	0.01%	\$700.00	0.02%	\$350.00	0.01%	\$50.00	0.00%
Continuing Education Course Approval	\$25	\$25	\$11,175 00	0.27%	\$9,450 00	0.22%	\$11,150 00	0.24%	\$10,700 00	0.24%
Pesticides Use Report Filing	\$6	\$6	\$280,254 00	6.65%	\$281,208 00	6.43%	\$295,794 00	6.41%	\$287,070 00	6.56%
Pesticide Fines (County)	N/A	N/A	\$112,014 00	2.66%	\$125,025 00	2.86%	\$179,695 00	3.89%	\$140,702 00	3.22%
Pesticide Use Stamp	\$2	\$2	\$46,010.00	1.09%	\$46,168.00	1.06%	\$48,562.00	1.05%	\$47,132.00	1.08%
Applicator's Exam	\$55	\$55	\$0.00	0.00%	\$112,860.00	2.58%	\$216,535.00	4.69%	\$217,800.00	4.98%
Applicator's License - Original	\$10	\$50	\$21,250.00	0.50%	\$11,720.00	0.27%	\$14,650.00	0.32%	\$14,930.00	0.34%
Renewal Applicator's License	\$10	\$50	\$5,990.00	0.14%	\$3,770.00	0.09%	\$2,820.00	0.06%	\$7,120.00	0.16%
Challenge Exam Applicator	\$15	\$15	\$0.00	0.00%	\$0.00	0.00%	\$30.00	0.00%	\$30.00	0.00%
Challenge Exam Operator	\$25	\$50	\$0.00	0.00%	\$0.00	0.00%	\$25.00	0.00%	\$0.00	0.00%
Challenge Exam Field Representative	\$10	\$50	\$0.00	0.00%	\$0.00	0.00%	\$30.00	0.00%	\$50.00	0.00%
Delinquent Renewal – Applicator	\$5	\$5	\$750.00	0.02%	\$545.00	0.01%	\$160.00	0.00%	\$390.00	0.01%
Delinquent Renewal – Field Rep.	\$15	\$15	\$825.00	0.02%	\$810.00	0.02%	\$495.00	0.01%	\$660.00	0.02%
Delinquent Renewal – Operator	\$60	\$60	\$9,360.00	0.22%	\$8,820.00	0.20%	\$8,940.00	0.19%	\$8,400.00	0.19%



**15. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.**

The Board has not authored nor submitted any BCPs in the past four years. In the 2013 Sunset Report, the Board indicated that it would pursue a BCP for 2014-15 or 2015-16 Budget Act to expand its program to include consumer arbitration and to seek position authority to establish at least 2 additional investigative positions. When the Board updated its Strategic Plan for 2015-2018, consumer arbitration was deferred for future consideration; position authority also was deferred for future consideration.

Table 5. Budget Change Proposals (BCPs)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved
N/A								
N/A								
N/A								

**Staffing Issues**

**16. Describe any board staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.**

The Board's workforce remains stable as there have been no major retention or recruitment issues. As part of its succession plan, the Board in October 2016 established an employment list for its field enforcement positions. The list is open for two years and may be extended at least four years to facilitate recruitment efforts.

As previously noted in 2014 Sunset legislation, the Board continues its efforts to reclassify positions in its Licensing and Enforcement units, and reclassified four positions beginning in the 2015/16 budget cycle.

**17. Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).**

The Board sets aside \$60,000 annually for County Agriculture Training and \$4,000 annually for staff training and development. County agriculture training is an historic and well-established training program designed to shape the landscape of the structural pest control industry. For at least two decades, the Board has provided field training for every aspect of structural pest control to county agricultural employees and Board employees. This training (which typically last three days) is hands-on, providing mock demonstrations of field practices that are typically encountered by county inspectors, such as requirements for the fumigation of buildings, inspection of pest control vehicles and inspection of structures.

Training is provided by members of the pest control industry, Department of Pesticide Regulation and Board staff. The training is designed to educate county programs, as well as provide them the tools necessary to effectively carry out their enforcement goals and objectives. The Education and Enforcement fund provides the necessary funds for this training effort, B&P Section 8505.17.

Integral to its staff development, the Board also harnesses DCA's program called, Strategic Organization, Leadership and Individual Development (SOLID). SOLID provides a very comprehensive and wide array of programs for workforce development and leadership improvement, providing Board staff pathways to gaining exceptional knowledge and aptitude from SOLID's organizational foci. SOLID offers traditional training by classroom instruction and workshops, and training through its e-learning portal. Webinars/webcasts of live training sessions and archived sessions are readily available to Board employees at all hours of the day, year-round. Course content includes, but is not limited to, Time Management Essentials, Procurement, Business Writing, Resume Preparation, Stress in the Workplace, How to Write Procedures, Conflict Resolution, Negotiation Skills, and Telephone Customer Service Techniques.

SOLID Planning Solutions also provides training in the following areas, not by limitation:

1. Strategic Planning;
2. Meeting and Event Facilitation;
3. Process Improvement;
4. Leadership Competencies;
5. Upward Mobility; and,
6. Board Member Orientation Training.

The executive officer and management staff readily encourage employees to harness all that is available through this proven and reputable program.

## Section 4 – Licensing Program

- 18. What are the board's performance targets/expectations for its licensing<sup>1</sup> program? Is the board meeting those expectations? If not, what is the board doing to improve performance?**

The Board outlined in its 2015-2018 Strategic Plan all performance targets/expectations. The Board is actively working on each category identified without setback or delay; the interim and final results are indicated respectively.

### **1.1 Evaluate continuing education provider qualifications and criteria to strengthen the approval process.**

The Board convened in January 2017 Board meeting and directed Board staff to prepare rulemaking to address CE training, consistent with the recommendations made by the Board's appointed Continuing Education Integrated Pest Management Review Committee. The



committee's recommendation includes provider qualifications, as well as allocation of hours and subject matter needed triennially by each license. The rulemaking package will include all ancillary matters tied to the implementation; specifically, the conduct of regular audits of providers and licensees to underscore compliance.

**1.2 Review and refine the licensing and renewal processes to increase licensees' level of compliance.**

The Board updated all its licensing and application forms in May 2015 and made subsequent updates in June 2015 through June 2016. The board continues to monitor efficacy and will update the forms as needs warrant.

The renewal process is currently under review to assess how best to automate renewals. The Board believes that the practice for the automation of renewals likely will be best established under the BreZE project due to its dynamic and complex nature. In brief, approximately ninety (90) percent of Board renewals are processed by DCA's Cashiering Unit. This vendor also processes renewals for many other boards and bureaus – to achieve uniformity without marginalizing other existing processes may be a difficult undertaking.

**1.3 Review and analyze exam questions and current reference materials to develop study guides and materials that focus on essential occupational principles and practices.**

The Board, in consultation with Office of Professional Examinations Services (OPES), has successfully reduced the reference materials from 30 in 2011 to 21 in 2016. The Board continues to work with OPES as scheduled and will update study guide materials once all occupational analyses have been completed and when all examination question content have been validated. This project is expected to be completed by the next budget cycle, Fiscal Year 2019/2020.

**1.4 Evaluate continuing education categories and hourly requirements, with emphasis on core competencies.**

This performance target coincides with item 1.1.

**1.5 Increase continuing education course field audits to ensure standards are met and proper training is received.**

This performance target coincides with item 1.1.

**19. Describe any increase or decrease in the board's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the board to address**

**them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?**

In accordance with Board policy, the Board processes approximately 99 percent of all applications and examination requests; all non-deficient applications are processed within 60 days. Applicants whose applications have been approved and who have successfully passed the examination have up to one year to complete their applications; beyond one year, the application is voided. Processing delays are rare; however, if they occur, they are usually a result of factors beyond the Board's or applicant's control (i.e. response to fingerprinting submissions provided by sibling agencies). Applicants are encouraged to begin the fingerprint background check as the first step in the examination / licensure process to minimize any delays. Because the Board's actual processing times have historically been very low, including the added process improvements associated with Board's use of CBT, Board members have not directed the Board to adopt regulations for the establishment of application processing times nor examination baselines.

**20. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?**

<b>Table 6. Licensee Population</b>					
		<b>FY 2013/14</b>	<b>FY 2014/15</b>	<b>FY 2015/16</b>	<b>FY 2016/17</b>
<b>Applicator</b>	<b>Active</b>	5317	5881	6664	6898
	<b>Delinquent</b>	374	485	1078	1511
	<b>Retired (Inactive)</b>	606	598	681	698
	<b>Out of State</b>	n/a	n/a	n/a	n/a
	<b>Out of Country</b>	n/a	n/a	n/a	n/a
<b>Field Representative</b>	<b>Active</b>	10,254	10,185	10,710	11,511
	<b>Delinquent</b>	826	899	803	906
	<b>Retired</b>	586	564	561	561
	<b>Out of State</b>	n/a	n/a	n/a	n/a
	<b>Out of Country</b>	n/a	n/a	n/a	n/a
<b>Operator</b>	<b>Active</b>	3,712	3,719	3,752	3769
	<b>Delinquent</b>	122	122	117	113
	<b>Retired</b>	280	295	284	285
	<b>Out of State</b>	n/a	n/a	n/a	n/a
	<b>Out of Country</b>	n/a	n/a	n/a	n/a
<b>Principle Registration</b>	<b>Active</b>	2,956	2,985	3,004	3,047
	<b>Delinquent</b>	n/a	n/a	n/a	n/a
	<b>Retired</b>	n/a	n/a	n/a	n/a
	<b>Out of State</b>	n/a	n/a	n/a	n/a
	<b>Out of Country</b>	n/a	n/a	n/a	n/a

**Table 7a. Licensing Data by Type**

						Pending Applications			Cycle Times		
	Application Type	Received	Approved to PSI	Closed/ exams taken	Issued	Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined IF unable to separate out
FY 2014-15	RA (Exam)	*	2492	1180	*	*	*	*	*	*	*
	RA (License)	*	*	*	1110	*	*	*	*	*	*
	RA (Renewal)	*	*	*	576	*	*	*	*	*	*
	FR (Exam)	*	5438	4004	*	*	*	*	*	*	*
	FR (License)	*	*	*	921	*	*	*	*	*	*
	FR (Renewal)	*	*	*	3071	*	*	*	*	*	*
	OPR (Exam)	*	476	415	*	*	*	*	*	*	*
	OPR (License)	*	*	*	142	*	*	*	*	*	*
	OPR (Renewal)	*	*	*	1204	*	*	*	*	*	*
	RA (Exam)	*	3907	3231	*	*	*	*	2	73	37.5
FY 2015-16	RA (License)	*	*	*	1429	*	*	*	3	21	12
	RA (Renewal)	*	*	*	531	*	*	*	*	*	*
	FR (Exam)	*	5848	4676	*	*	*	*	6	210	108
	FR (License)	*	*	*	1520	*	*	*	13	36	24.5
	FR (Renewal)	*	*	*	2360	*	*	*	*	*	*
	OPR (Exam)	*	409	372	*	*	*	*	3	264	133.5
	OPR (License)	*	*	*	177	*	*	*	25	74	49.5
	OPR (Renewal)	*	*	*	979	*	*	*	*	*	*
	RA (Exam)	*	3822	3150	*	*	*	*	NYA	NYA	NYA
FY 2016-17	RA (License)	*	*	*	1434	*	*	*	NYA	NYA	NYA
	RA (Renewal)	*	*	*	682	*	*	*	*	*	*
	FR (Exam)	*	6008	4556	*	*	*	*	NYA	NYA	NYA
	FR (License)	*	*	*	1727	*	*	*	NYA	NYA	NYA
	FR (Renewal)	*	*	*	2244	*	*	*	*	*	*
	OPR (Exam)	*	395	335	*	*	*	*	NYA	NYA	NYA
	OPR (License)	*	*	*	168	*	*	*	NYA	NYA	NYA
	OPR (Renewal)	*	*	*	973	*	*	*	*	*	*
	* Not tracked by Board					NYA = Not yet available					



**Table 7b. Total Licensing Data**

	FY 2014/15	FY 2015/16	FY 2016/17
<b>Initial Licensing Data:</b>			
Initial License/Initial Exam Applications Received	*	*	*
Initial License/Initial Exam Applications Approved (sent to PSI)	8406	10164	10225
Initial License/Initial Exam Applications Closed (exams taken)	5599	8279	8041
License Issued	2173	3126	3329
<b>Initial License/Initial Exam Pending Application Data:</b>			
Pending Applications (total at close of FY)*	*	*	*
Pending Applications (outside of board control)*	*	*	*
Pending Applications (within the board control)*	*	*	*
<b>Initial Exam Cycle Time Data (WEIGHTED AVERAGE):</b>			
Applicators - Average Days to Application Approval (All - Complete/Incomplete)	*	37.5	NYA
Field Representatives - Average Days to Application Approval (All - Complete/Incomplete)	*	108	NYA
Operator - Average Days to Application Approval (All - Complete/Incomplete)	*	133.5	NYA
Applicator - Average Days to Application Approval (incomplete applications)	*	73	NYA
Field Representative - Average Days to Application Approval (incomplete applications)	*	210	NYA
Operator - Average Days to Application Approval (incomplete applications)	*	264	NYA
Applicator - Average Days to Application Approval (complete applications)	*	2	NYA
Field Representative - Average Days to Application Approval (complete applications)	*	6	NYA
Operator - Average Days to Application Approval (complete applications)	*	3	NYA
<b>Initial License Cycle Time Data (WEIGHTED AVERAGE):</b>			
Applicators - Average Days to Application Approval (All - Complete/Incomplete)	*	12	NYA
Field Representatives - Average Days to Application Approval (All - Complete/Incomplete)	*	24.5	NYA
Operator - Average Days to Application Approval (All - Complete/Incomplete)	*	49.5	NYA
Applicator - Average Days to Application Approval (incomplete applications)	*	21	NYA
Field Representative - Average Days to Application Approval (incomplete applications)	*	36	NYA
Operator - Average Days to Application Approval (incomplete applications)	*	74	NYA
Applicator - Average Days to Application Approval (complete applications)	*	3	NYA
Field Representative - Average Days to Application Approval (complete applications)	*	13	NYA
Operator - Average Days to Application Approval (complete applications)	*	25	NYA
<b>License Renewal Data:</b>			
License Renewed	4851	3870	3899
Note: The values in Table 7b are the aggregates of values contained in Table 7a.			
* Not tracked by Board                      NYA = Not yet available			

**21. How does the board verify information provided by the applicant?**

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

**a. What process does the board use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?**

Applicants must respond to the question on the application, "Have you ever been convicted of a felony or a misdemeanor other than a minor traffic infraction?" If yes, they are to attach a signed, detailed statement regarding all felonies and misdemeanor convictions in addition to live scan process. If the applicant says "no" and the Board later receives a background check hit, the Board then sends written correspondence to the applicant requesting an explanation. For prior disciplinary actions, the Board reviews CAS records for pending complaints, citations and accusations. If records reveal any pending actions or unsatisfied obligations, the applicant is asked to correct the issues. If the Board believes that an applicant has falsified any information in the application regarding criminal history or past/present disciplinary actions, the application will be referred for denial or a statement of issues. Pursuant to the Administrative Procedures Act, the applicant may appeal the Board's proposed action.

**b. Does the board fingerprint all applicants?**

Effective July 1, 2004, all license applicants must be fingerprinted for a criminal history background check through the Board's Criminal Offender Record Information program (CORI). Staff reviews the criminal history record from the Department of Justice and the Federal Bureau of Investigation and makes the determination to issue or deny the license. All license applications are screened through the Board's enforcement records to determine if the applicant has had any prior disciplinary actions or outstanding enforcement actions that may be grounds for denial of the application.

**c. Have all current licensees been fingerprinted? If not, explain.**

The Board's fingerprint legislation became effective on July 1, 2004. Because this law could not be enforced retrospectively, only applicants filing applications for licensure on or after July 1, 2004 and current licensees upgrading their licenses (i.e. upgrading a field representative license to an operator license) were subject to the requirements of



this legislation. The DCA sought authority in FY 2007-08 to allow affected boards and bureaus to require all licensees who have not been previously fingerprinted to submit fingerprints as part of the renewal of their licenses; however, this legislation did not pass.

Effective February 29, 2016, the Board updated its policy by promulgating regulations (CCR 1960) concerning Criminal Offender Record Information by requiring all licensees, whose licenses were issued on or before December 31, 2003, to submit to fingerprinting as soon as administratively feasible but no later than the date of licensure renewal beginning June 30, 2016 through June 30, 2018 therefore capturing any licensee not previously fingerprinted.

**d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?**

The Board does not use a national databank for disciplinary actions nor in connection with license issuance or renewals. However, the Board requires applicants to disclose prior disciplinary actions (including misdemeanors and felonies) from all states and regulatory bodies. The Board may randomly review these applications to verify the information contained therein. The Board may take appropriate disciplinary action if it confirms any form of misrepresentation in the application or renewal of a license.

**e. Does the board require primary source documentation?**

The Board requires source documentation on all its forms for the maintenance, issuance or renewal of a license. This documentation requires certification under penalty of perjury, signed by the applicant or licensee, for truth and accuracy of the information contained. At various stages of an examination or licensing process, the Board may require that the licensee or applicant provides evidence of valid photo identification, generally a driver's license. Photo identification is mandatory for all examination applications, specifically at the examination sites.

When the Board's investigators conduct audits at the examination sites, they will request and verify source documentation supporting that the candidate is authorized to be at the examination site, usually valid photo identification and examination papers.

Finally, the Board accepts source documents furnished by the applicant or licensee from current and previous employers and similar documents attesting to the experience, education and qualifications of the applicant or licensee.

**22. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.**

If the applicant is already licensed in a different state, the Board will send a request to the applicant's current/previous employer requesting a License History on that state regulatory authority's letterhead, if applicable. Whether the person holds a license, the licensing unit routinely requests from the applicant a detailed statement from his/her employer stating the exact duties the individual performed. Certificates of training, any

schooling in pest control and a penalty of perjury statement from the applicant are required. The licensing unit reviews that state's website to view its requirements for licensure: the unit specifically reviews whether 1) the rules and regulations and 2) education and experience requirements meet or exceed Board's requirements for licensure in California. The Board encourages the applicant to submit as much information that he/she believes is relevant to prevent any application processing delays. If the application is approved, the applicant is scheduled to take the appropriate license examination.

**23. Describe the board's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.**

**a. Does the board identify or track applicants who are veterans? If not, when does the board expect to be compliant with BPC § 114.5?**

**114.5** (a) Each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

Both the Board's examination and license applications ask the applicant if they are currently serving or have previously served in the military

**b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the board?**

The Board has not had any applicants offer military education or experience towards the required experience necessary for licensure.

**c. What regulatory changes has the board made to bring it into conformance with BPC §35?**

**BPC 35** - It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated. These rules and regulations shall also specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations.

Each board shall perform the duties required by this section within existing budgetary resources of the agency within which the board operates.

The Office of Administrative Law approved, and made effective January 1, 2017, revisions for each of the Board's license applications. The Board now inquires on each of its license applications as to the military and / or veteran status of both the applicant and if applicable, the applicant's spouse. For each of the Board's license types that have a training and / or experience component, the Board accepts training or experience that was acquired during an applicant's times in the armed forces.

**d. How many licensees has the board waived fees or requirements for pursuant to BPC 114.3, and what has the impact been on board revenues?**

**114.3** (a) Notwithstanding any other provision of law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:

- 1.The licensee or registrant possessed a current and valid license with the board at the time he or she was called to active duty.
- 2.The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.
- 3.Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.

(b)(1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.

(2) If the licensee or registrant will provide services for which he or she is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.

(c) In order to engage in any activities for which he or she is licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.

(d) After a licensee or registrant receives notice of his or her discharge date, the licensee or registrant shall notify the board of his or her discharge from active duty within 60 days of receiving his or her notice of discharge.

(e) A board may adopt regulations to carry out the provisions of this section.

(f) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

The Board rarely receives notification that a cancelled or soon to be cancelled license is unable to renew due to being away on active military duties. We receive maybe one person per renewal period (per year) who falls into this category. This does not have an impact on the Board's revenues because it is very rare and our renewal fees are fairly minimal. At most, the deferred revenue is about \$120.

**24. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.**

The Board sends NLIs to DOJ by regular mail or by facsimile on a regular basis. Presently, the NLI form does not enable the Board to send this confidential information electronically. The Board processes as many as 5 NLIs per day. There is no backlog.

NLI Automated Process through BreEZe:

An automated NLI process is currently in the development and will be a feature in BreEZe. The Board is in phase 3 of the BreEZe implementation in 2018-19 Fiscal Year.

**Examinations**

Table 8. Examination Data				
California Examination (include multiple language) if any:				
<b>2013/2014</b>	<b>Pass</b>	<b>Fail</b>	<b>Total</b>	<b>Pass Rate</b>
<b>Applicator</b>	N/A	N/A	N/A	N/A
First Time	N/A	N/A	N/A	N/A
Repeat	N/A	N/A	N/A	N/A
<b>Field Representative</b>				
<b>Branch 1</b>				
First Time	4	15	19	21%
Repeat	3	1	4	75%
<b>Branch 2</b>				
First Time	167	192	359	47%
Repeat	3	11	14	21%
<b>Branch 3</b>				
First Time	55	160	215	26%
Repeat	9	29	38	24%

<b>Operator</b>				
<b>Branch 1</b>				
First Time	3	5	8	38%
Repeat	0	2	2	0%
<b>Branch 2</b>				
First Time	20	35	55	36%
Repeat	5	7	12	42%
<b>Branch 3</b>				
First Time	21	15	36	58%
Repeat	1	3	4	25%

<b>2014/2015</b>	<b>Pass</b>	<b>Fail</b>	<b>Total</b>	<b>Pass Rate</b>
<b>Applicator</b>				
First Time	504	537	1041	48%
Repeat	154	142	296	52%
<b>Field Representative</b>				
<b>Branch 1</b>				
First Time	17	22	39	44%
Repeat	11	24	35	31%
<b>Branch 2</b>				
First Time	535	1057	1592	34%
Repeat	316	861	1177	27%
<b>Branch 3</b>				

First Time	152	454	606	25%
Repeat	186	386	572	33%
<b>Operator</b>				
<b>Branch 1</b>				
First Time	5	9	14	36%
Repeat	3	15	18	17%
<b>Branch 2</b>				
First Time	82	66	148	55%
Repeat	41	74	115	36%
<b>Branch 3</b>				
First Time	46	32	78	59%
Repeat	20	23	43	47%



2015/2016	Pass	Fail	Total	Pass Rate
<b>Applicator</b>				
First Time	1013	986	1999	51%
Repeat	575	700	1275	45%
<b>Field Representative</b>				
<b>Branch 1</b>				
First Time	37	41	78	47%
Repeat	14	37	51	27%
<b>Branch 2</b>				
First Time	950	948	1898	50%
Repeat	659	835	1494	44%
<b>Branch 3</b>				
First Time	296	390	686	43%
Repeat	226	283	509	44%
<b>Operator</b>				
<b>Branch 1</b>				
First Time	7	4	11	64%
Repeat	5	13	18	28%
<b>Branch 2</b>				
First Time	117	40	157	75%
Repeat	38	43	81	47%
<b>Branch 3</b>				
First Time	62	14	76	82%
Repeat	15	16	31	48%

2016/2017	Pass	Fail	Total	Pass Rate
<b>Applicator</b>				
First Time	972	942	1914	51%
Repeat	566	715	1281	44%
<b>Field Representative</b>				
<b>Branch 1</b>				
First Time	19	32	51	37%
Repeat	23	33	56	41%
<b>Branch 2</b>				
First Time	1161	934	2095	55%
Repeat	564	590	1154	49%
<b>Branch 3</b>				
First Time	339	423	762	44%
Repeat	216	267	483	45%
<b>Operator</b>				
<b>Branch 1</b>				
First Time	4	4	8	50%
Repeat	2	5	7	29%
<b>Branch 2</b>				
First Time	133	32	165	81%
Repeat	23	28	51	45%
<b>Branch 3</b>				
First Time	44	28	72	61%
Repeat	15	23	38	39%

**25. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?**

The Board does not maintain reciprocal agreements with other states; therefore, the Board does not administer a national examination. The Board does not offer exams in languages other than English because the applicant and licensee must be able to read and understand the pesticide label and comply with California labeling laws.

The Board's examination requirements are guided by California statute, commencing with B&P sections 8562 and 8564 and California Code of Regulations, Section 1937. In addition to measuring proficiencies in traditional pest control methods, each licensing exam requires

specific proficiencies in integrated pest management, including water quality safety. Below is a description of each license type issued by the Board and a more detailed explanation of steps necessary prior to admittance to take the California-based examination. I

The Board licenses and regulates applicators, field representatives and operators in the areas of Branch 1 – Fumigation, Branch 2 – General Pest, and Branch 3 – Termite (Wood- Destroying Pests and Organisms).

### **Applicator's License**

Branch 2 & 3 Education –

Experience – None

Examination – Must successfully pass written examination with score of 70% or better. The examination will ascertain that an applicant has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures, integrated pest management and pesticide label directions.

### **Field Representative's License**

Branch 1 Education –

None

Experience – Six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating. Of this six months' experience, a minimum of 100 hours of training and experience must be in the area of preparation, fumigation, ventilation, and certification.

Examination – Must successfully pass written examination with score of 70% or better. The examination will ascertain that an applicant is qualified in the use and understanding of the safety laws of the state, provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice of pest control, and other state laws, safety or health measures, or practices as are reasonable within the scope of structural pest control.

Branch 2 Education –

None

Experience – A minimum of 40 hours of training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice, of which 20 hours are actual field work

Examination – Must successfully pass written examination with score of 70% or better. The examination will ascertain that an applicant is qualified in the use and understanding of the safety laws of the state, provisions of the Structural Pest Control Act, poisonous and other

dangerous chemicals used in pest control, the theory and practice of pest control, and other state laws, safety or health measures, or practices as are reasonable within the scope of structural pest control.

Branch 3 Education –

None

Experience – A minimum of 100 hours of training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing, of which 80 hours are actual field work.

Examination – Must successfully pass written examination with a score of 70% or better. The examination will ascertain that an applicant is qualified in the use and understanding of the safety laws of the state, provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice of pest control, and other state laws, safety or health measures, or practices as are reasonable within the scope of structural pest control.

### **Operator's License**

Branch 1

Education – Successful completion of board-approved course in the areas of pesticides, pest identification and biology, contract law, rules and regulations, business practices, and fumigation safety.

Experience – Two years' actual experience in the practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases. One-year of experience must have been as a licensed field representative in Branch 1 (B&P Section 8562).

Examination – Operators must complete a Pre-Op Course before taking the licensure exam. Must successfully pass written examination with a score of 70% or better. The examination will ascertain that the applicant is qualified in the use and understanding of the English language, including reading, writing, and spelling, the building and safety laws of the state and any of its political subdivisions, the labor laws of the state, the provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice relating to the control of household and wood destroying pests or organisms by fumigation with poisonous or lethal gases, and other state laws, safety or health measures, or practices that are reasonable within the scope of structural pest control, including an applicant's knowledge of the requirements regarding health effects and restrictions.

Branch 2

Education – Successful completion of board-approved course in the areas of pesticides, pest identification and biology, contract law, rules and regulations, and business practices.

Experience – Two years' actual experience in the practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases. One-year of the required two years' experience must have been as a field representative in Branch 2.

Examination – Must successfully pass written examination with a score of 70% or better. The examination will ascertain that the applicant is qualified in the use and understanding of the English language, including reading, writing, and spelling, the building and safety laws of the state and any of its political subdivisions, the labor laws of the state, the provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice relating to the control of household pests, and other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control, including an applicant's knowledge of the requirements regarding health effects and restrictions.

### Branch 3

Education – Successful completion of board-approved course in the areas of pesticides, pest identification and biology, contract law, rules and regulations, business practices, and construction repair and preservation techniques.

Experience – Four years' actual experience in the practice relating to the control of wood destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases. Two years of the required four years' experience must have been as a field representative in Branch 3.

Examination – Must successfully pass written examination with a score of 70% or better. The examination will ascertain that the applicant is qualified in the use and understanding of the English language, including reading, writing, and spelling, the building and safety laws of the state and any of its political subdivisions, the labor laws of the state, the provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice relating to the control of wood destroying pests or organisms by the use of insecticides, or structural repairs and corrections, and other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control, including an applicant's knowledge of the requirements regarding health effects and restrictions.

**26. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data) Are pass rates collected for examinations offered in a language other than English?**

The Board does not offer exams in a language other than English, because the licensee or applicant must be able to read and understand pesticide label and products sold in California.

**27. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?**

The board began computer based testing (CBT) in March 2014. The Board contracts with a DCA approved vendor. This vendor also serves a majority of, if not all, other boards and bureaus under the Department's umbrella.



CBT is available for all board examinations and is administered daily throughout California and in other states, currently 17 examination sites in California and 22 locations in the continental United States. Examinees schedule their examinations through the coordinated efforts of the licensing staff and may select a testing site most conveniently located from their work/home. The tests are proctored by the vendor who oversees the licensee consistent with accepted testing/security measures.

Examinees, to prepare for the examination, are provided study guide material and a Candidate Handbook, which thoroughly describes the vendor testing process and includes site locations in California and nationwide.

#### More Information about CBT:

CBT is being used for all Board examinations with the exception of continuing education challenge examinations.

Once the examination application is received in the office, staff reviews the application and electronically sends application eligibility to the CBT vendor. The CBT vendor either mails or emails a candidate's handbook that contains information on the examination and how to schedule the exam. Applicants can schedule either online or by telephone for any date, time, and location that is available. There are 17+ examination locations that are open Monday through Saturday and exam start times range from 9:00 am to 6:00 pm. Some locations are occasionally open on Sundays.

Last Occupational Analysis (OA) for each exam was performed as follows: Applicator

Exam — 2014

Branch 1 Field Representative — 2008 (2018 goal for new OA)

Branch 2 Field Representative — 2015

Branch 3 Field Representative — 2017

Branch 1 Operator — 2008 (2018 goal for new OA)

Branch 2 Operator — 2017

Branch 3 Operator — 2008 (2018 goal for new OA)

**28. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.**

None

**School approvals**

**29. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?**

The Board does not have delegated authority to approve and license a school. However, the Board does approve course content submitted by upstart and existing course providers.

There is no statutory or regulatory provision in the Structural Pest Control Act that the CE course content is to be administered under the direction and/or control of BPPE.

**30. How many schools are approved by the board? How often are approved schools reviewed? Can the board remove its approval of a school?**

The Board currently has 94 CE approved providers listed on its website ([www.pestboard.ca.gov/ca/providers.shtml](http://www.pestboard.ca.gov/ca/providers.shtml)). Board staff evaluates and approves each course offering, including the course syllabus and curriculum vitae. Board investigators and in-house staff periodically audit CE course providers to ensure compliance with Board requirements. If a provider fails to comply with the standards adopted by the Board pursuant to CCR 1950 and 1953, the Board has the authority to withdraw or cancel the course offering.

In addition, the board may refer repeated violations to the oversight of BPPE or other jurisdiction to discontinue or, otherwise, terminate any accreditations or licensure maintained by the provider.

**31. What are the board's legal requirements regarding approval of international schools?**

The Board does not have delegated authority to approve/license international schools.

**Continuing Education/Competency Requirements**

**32. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.**

Continued competency in the practice of structural pest control is assured through mandatory continuing education. Continuing education requirements vary depending on the type of license and number of categories held by the individual licensee. The number of required hours varies from 12 to 24 hours in a three-year renewal period. The Board conducts random audits every renewal period to ensure compliance with license renewal requirements.

The board requires licensees to complete continuing education specific to the technical branches they are licensed in, every three years. Applicators are required to complete 12 hours of continuing education of which, 6 hours must cover pesticide application and use, 4 hours must cover the board's rules and regulations, and 2 hours must cover integrated pest management. Field Representatives and Operators must complete 8 hours covering the board's rules and regulations, 4 hours specific to each technical branch they are licensed in, and 2 hours covering integrated pest management and 2 hours in any other category.

No changes have been made to CE requirements; however, the Board is considering amending CE categories. In January 2017, the committee requested that Board staff take steps necessary to effect the CE category changes. Once staff completes this request, the matter will be held at the next Board meeting, tentatively scheduled for the January 2018 Board meeting for final action.

**a. How does the board verify CE or other competency requirements?**

Every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action. Each year the board conducts continuing education audits that require a percentage of licensees to produce their certificates of activity completion.

**b. Does the board conduct CE audits of licensees? Describe the board's policy on CE audits.**

The board conducts annual CE audits on all classes of licensees. The board's policy is to conduct audits following renewals to insure licensees are accurately reporting their continuing education. The audits are conducted by taking a list of every licensee who renewed that year, and randomly selecting a percentage of them who will be required to provide proof of their CE having been completed. Percentages vary from year-to-year based on staff workload. Percentages by year are broken down below.

**c. What are consequences for failing a CE audit?**

The consequences for failing a CE audit depend on the severity of the failure to meet requirements. The range of penalties varies from a citation and fine, suspension, even license revocation.

**d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?**

The following is a breakdown of the number of CE audits performed by license, each fiscal year.

Number of CE Audits			
Fiscal Year	Applicator	Field Representative	Operator
2014/15	52	397	756
2015/16	121	No Audits	778
2016/17	75	402	328
2017/18	Pending	Pending	Pending

There is no pass/fail regarding CE. However, licensees are required to fulfill all CE requirements every three years as a condition precedent to licensure renewal. Licensees must certify on their license renewal form, under penalty of perjury, that they have completed their required course content administered by external course providers.

The board randomly selects renewal applications for audit by contacting the licensee to provide confirmation of CE course completion. Licensees who are unable to document completion may be subject to corrective action (citation and fine) or disciplinary action (suspension or revocation of license).

The Board's response to a "fail" is based on the number of license audits it has conducted in the preceding 3 fiscal years. No data is available in FY 2013-14 as the Board did not have the technological infrastructure in place. This data represents administrative citations issued for a licensee's failure to comply with CE requirements. No data is available for disciplinary actions.

Total number of citations issued in the last 4 fiscal years:

Operators and Field Representatives (Violation of 8593 Business and Professions Code): 172  
 Applicators (Violation of 8593.1 Business and Professions Code): 50

**e. What is the board's course approval policy?**

The Board's course approval policy is set under California Code of Regulations Section This sections states in relevant part:

All educational activities must be submitted to the Board for approval. Each activity approved for technical or rules and regulations must include a written examination to be administered at the end of the course.

Examinations administered at the end of the course must consist of ten questions per one hour of instruction, with 40 questions minimum for any activity of instruction of four hours or more. Licensees must obtain a passing score of 70% or better in order to obtain a certificate of course completion. If the examination is failed, the licensee shall be allowed to be reexamined by taking a different examination within sixty days.

The following is an outline of course requirements:

- a. Accredited college courses – 10 hours for each 2 semester-unit course; 16 hours for each 3 semester-unit course.
- b. Adult education courses – 6 hours
- c. Professional seminars or meetings – up to a maximum of 6 hours per seminar or meeting. Additional hours may be approved depending on the complexity of the activity and its relevance to new developments in the field of pest control.
- d. Technical seminars or meetings – up to a maximum of 6 hours per seminar or meeting. Additional hours may be approved depending on the complexity of the activity and its relevance to new developments in the field of pest control.
- e. Operators' courses approved by the Board pursuant to section 8565.5 of the code – 1 hour per hour of instruction.
- f. Correspondence courses developed by the Board pursuant to section 8565.5 of the code – full credit per branch.
- g. Correspondence courses approved by the board – hours will be assigned depending on the complexity of the course and its relevance to new developments in the field of pest control.
- h. Association meetings – 1 hour for every hour of instruction up to a maximum of 4 hours per meeting.
- i. Structural Pest Control Board meetings – 1 general hour and 1 rule and regulation hour per meeting, up to a maximum of 4 hours per renewal period (excluding Board Members.) this activity is exempt from examination requirements pursuant to this section.
- j. Structural Pest Control Board Committee meetings – 1 hour per meeting, up to a maximum of 2 hours per renewal period (excluding Board Members).
- k. In-house training in technical subjects – 1 hour per hour of instruction.
- l. Board approved Rules and Regulations courses – 1 hour for every hour of instruction.
- m. Integrated Pest Management courses – 1 hour for every hour of instruction.

**f. Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?**

The Board has staff dedicated to review and approve CE courses. The Board applies the provisions of Section 1950 and 1953 of the California Code of Regulations. Section 1953 states in relevant part:

- A. Providers of activities of continuing education in pest control shall request approval as a provider and of activities on forms provided by the Board. The form is reviewed for completion by the Education Program Coordinator and then submitted to the Executive Officer for final review and approval. An approval letter is sent to the provider, outlining the criteria and approval.



process for submitting instructor and CE course applications. Requests for approval of activities must be submitted to the Board no later than 60 days prior to presentation of the activity unless exception is granted by the Registrar.

- B. All providers must notify the Board 30 days prior to the presentation of any board approved activity unless exception is granted by the Registrar.
- C. All providers must submit a course attendance roster to the Structural Pest Control Board within five working days after every course instructed.
- D. After giving the provider a written notice and an opportunity to respond, the Board may withdraw approval of any activity
- E. Unless otherwise indicated, approval of each activity shall remain in effect for 3 years.
- F. To be approved, activities must be:
  - 1. Directly related to the field of structural pest control;
  - 2. Provided by an institution, association, university, or other entity assuming full responsibility over the course program;
  - 3. Composed of a formal program of learning which requires:
    - a. Attendance and participation,
    - b. At least one hour of instruction,
    - c. A syllabus (detailed outline of the main points of the curriculum),
    - d. A certificate of completion; and,
  - 4. Conducted by an instructor who has qualified by meeting two of the following experience requirements:
    - a. Completion of training in the subject of the activity,
    - b. Six months' experience working in the area covered by the activity within the preceding three years,
    - c. Experience teaching an activity of similar content within the preceding five years,
    - d. Completion of any post-secondary studies related to the subject matter of the activity,
    - e. Author of the activity being reviewed, or a credentialed instructor.

**g. How many applications for CE providers and CE courses were received? How many were approved?**

The Board does not maintain a database to track the total number of CE provider applications submitted nor the actual number of CE courses received for approval in the last four years. According to hard copy records, the Board has 725 courses approved for CE education: <http://www.pestboard.ca.gov/ce/ceaa2.pdf>. The Board also maintains a list of approved CE instructors.

**h. Does the board audit CE providers? If so, describe the board's policy and process.**

The Board's investigators and internal staff periodically audit CE providers (up to 12 times per year) to ensure compliance with the Board's laws, rules and regulations. Board investigators, who also hold pest control licenses (inactive status by state policy), are also required per Board policy to maintain CE requirements.

The CE audit process may be either: 1) Educational or informational, or 2) Investigative. Educational or informational is a process by which Board's administrative or investigative staff responds to frequently asked questions or provides general guidance to the CE provider to ensure compliance with statutory or regulatory requirements.

The Investigative process is initiated either proactively whereby CE providers are investigated randomly or, as issues are raised to the Board by formal or informal complaints, reactively to consider the imposition of course decertification or criminal prosecution. Board investigators use recognized investigative techniques and sources of information (i.e. law enforcement or the judicial system) to assist in gathering all facts associated with a given investigation to assess whether violations of law should be pursued.

**i. Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensee's continuing competence.**

The Board's current CE policy supports written performance based assessments that place great emphasis in the principles of pest control practice and theory. The industry of pest control is considered "closely regulated" due to the number of statutory and regulatory requirements imposed by local, state and federal jurisdictions. Pest control companies, from a business operational perspective, must ensure that their employees are sufficiently trained to carry out the tasks expected of them, performing at a level necessary for job success and to ensure public safety in the application of pesticides.

The Board views that these checks and balances provide the greatest assurances that the current CE policy meets or exceeds its intended purpose.

## **Section 5 – Enforcement Program**

**33. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?**

**2.1 Increase proactive enforcement to effectively reduce the frequency of unlawful pest control services.**

Pursuant to 8620 B&P, the Board expanded its discretion by supplementing reactive complaints using proactive investigation and/or inspection of illegal advertisements in classified directories, websites, and in the field. Board staff also conduct unannounced inspections of businesses. The Board recognizes that its paramount responsibility is consumer protection pursuant to section 8520.1 and will not compromise this mandate at the expense of conducting proactive investigations and inspections.

**2.2 Implement enhancements to Board response and coordination with local governments and other partners on fumigation emergencies and where multiple (serious level) pest control violations exist.**

Since 2015, the Board has maintained a database on the number of Notices of Proposed Actions, similar to administrative citations and fines, issued by local government for violations of the Structural Pest Control Act (SPCA). This database is used to monitor fumigation violations and provides critical information on whether the Board should pursue disciplinary against companies based on the nature, severity and gravity of the violations.

In addition, the Board also uses local government databases, monitoring pesticide use reports (particularly those that involve fumigation projects) to assess whether companies or individuals may be in violation of the SPCA and whether disciplinary action should be levied.

**2.3 Seek statutory authority to automatically suspend or, with cause, revoke any license or registration based on non-compliance of citation.**

The board is seeking legislation during this session to add/amend statute.

**2.4 Seek statutory authority to automatically suspend any license or registration based on an owner's or licensee's failure to satisfy court judgments, arbitration awards, tax liens and other lawfully imposed sanctions related to the pest control profession.**

The board is seeking legislation during this session to add/amend statute.

**2.5 Seek statutory authority to require any person listed on the principle registration or branch office registration to take**

**continuing education or board-approved courses as a condition of a board-issued citation.**

The board is seeking legislation during this session to add/amend statute.

**2.6 Seek statutory authority to deny the renewal of a license based on an owner's or licensee's failure to comply with any provision of the Structural Pest Control Act. (I.e. failure to: post a restoration bond, complete continuing education courses, or comply with an order of abatement).**

The board is seeking legislation during this session to add/amend statute.

**34. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?**

Intake of complaints remain steady for the board, averaging approximately 582 per year since FY 2014-15. Complexity of complaint issues as opposed to volume have affected the board's ability to timely investigate certain cases before the expiration of statute of limitations. The board has sought legislation to correct this problem (AB 1590). This legislation was chaptered and filed with Secretary of State on September 25, 2017.

The most significant challenges facing the enforcement division has been identified in the Board's strategic plan. Foremost, the board seeks to add or amend statute and regulations whereby it has greater authority to levy sanctions against licensees and companies for failure to comply with the board's laws and regulations in the following categories: license maintenance (i.e. secretary of state filings, bonds and insurance), timely filing of WDO inspection reports, production of records/retention, mandatory supervision, terms and conditions of probation and eligibility for licensure reinstatement.

In addition, certain provisions of law and regulations require updating to correct challenges concerning their interpretation and enforcement, particularly in the areas of license cancellations, registration of companies, Title 24 regulations, citation and fine sanctions and disciplinary proceeding under Article 7 of the Structural Pest Control Act.

**Table 9a. Enforcement Statistics**

	FY 2014/15	FY 2015/16	FY 2016/17
<b>COMPLAINT</b>			
Intake	594	586	565
Received	574	556	546
Closed	2	0	4
Referred to INV	574	558	541
Average Time to Close	4 days	3 days	2 days
Pending (close of FY)	3	1	2
Source of Complaint			
Public	417	424	433
Licensee/Professional Groups	69	49	38
Governmental Agencies	14	39	28
Other	106	92	92
Conviction / Arrest			
CONV Received	20	30	19
CONV Closed	22	30	19
Average Time to Close	3	1	3
CONV Pending (close of FY)	0	0	0
<b>LICENSE DENIAL</b>			
License Applications Denied	0	3	6
SOIs Filed	6	15	15
SOIs Withdrawn	6	2	9
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	345	479	472
<b>ACCUSATION</b>			
Accusations Filed	62	54	51
Accusations Withdrawn	0	4	1
Accusations Dismissed	1	0	0
Accusations Declined	0	0	0
Average Days Accusations	596	606	577
Pending (close of FY)	68	74	52



Table 9b. Enforcement Statistics (continued)			
	FY 2014/15	FY 2015/16	FY 2016/17
<b>DISCIPLINE</b>			
Disciplinary Actions			
Proposed/Default Decisions	26	38	45
Stipulations	54	35	42
Average Days to Complete	507	428	565
AG Cases Initiated	72	65	64
AG Cases Pending (close of FY)	68	74	52
Disciplinary Outcomes			
Revocation	39	40	47
Voluntary Surrender	16	4	19
Suspension	0	0	0
Probation with Suspension <sup>1</sup>	13	12	4
Probation <sup>2</sup>	25	19	19
Probationary License Issued	1	4	6
Other	0	0	0
<b>PROBATION</b>			
New Probationers	41	38	28
Probations Successfully Completed	15	18	36
Probationers (close of FY)	117	114	92
Petitions to Revoke Probation	9	2	3
Probations Revoked	2	11	3
Probations Modified	1	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	0	0	2
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0
Petition for Reinstatement Granted	3	2	3
<b>DIVERSION</b>			
New Participants	na	na	na
Successful Completions	na	na	na
Participants (close of FY)	na	na	na
Terminations	na	na	na
Terminations for Public Threat	na	na	na
Drug Tests Ordered	na	na	na
Positive Drug Tests	na	na	na

**Table 10. Enforcement Aging**

	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	Cases Closed	Average %
<b>Attorney General Cases (Average %)</b>						
Closed Within:						
0 - 1 Year	21	20	32	53	126	32
1 - 2 Years	16	41	26	32	115	29
2 - 3 Years	8	5	9	2	24	6
3 - 4 Years	4	0	1	1	6	1.5
Over 4 Years	0	2	0	0	2	0.5
Total Attorney General Cases Closed	49	68	68	88	273	68
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days	352	335	389	368	1444	361
91 - 180 Days	65	67	66	78	276	69
181 - 1 Year	80	82	107	84	353	88
1 - 2 Years	31	27	77	52	187	47
2 - 3 Years	10	16	36	14	76	19
Over 3 Years	3	3	5	1	12	3
Total Investigation Cases Closed	541	530	680	597	2348	587

### 35. What do overall statistics show as to increases or decreases in disciplinary action since last review?

These statistics show that disciplinary actions (Accusations) are consistently at nine percent (.09) of the total number of complaints received. These statistics also show that the Board levies consistently corrective actions for consumer complaints, averaging approximately 90 actions per year. Since the Board's use of citations in 1999, it has improved the Board's discretion to impose alternative penalty sanctions in lieu of the more severe consequences associated with suspensions and revocations. Except when disciplinary actions are the most appropriate course of action, citations, when used, improve the Board's ability to gain compliance for lesser violations which may be a benefit to consumers to receive speedy redress.

Disciplinary actions vary over time as they are dynamic factors (numbers that cannot be controlled and are affected by various social, behavioral and economic variables). The consistency of disciplinary actions taken by the Board may be an indicator that licensee misconduct may be attributed to social and behavioral factors as opposed to economic stimuli. History has shown that disciplinary actions are cyclical and vary primarily with increased housing activity where there can be a tendency to experience a rise in consumer complaints alleging fraud or financial harm; however, the slight decrease in complaints and, in particular, a lack of restitution ordered as depicted above, show that

consumer harm suffered is not necessarily associated with financial matters.

**36. How are cases prioritized? What is the board's compliant prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.**

The Board's case prioritization policy is consistent with the DCA's guidelines, appropriate for the license population it is charged to oversee. The Board applies cases by level of priority, Urgent, 2) High, and 3) Routine. Urgent priority cases include fumigation deaths, arrests or convictions, or unlicensed activity (elder abuse or significant financial damages). High priority cases include probation violations, unlicensed activity (moderate financial damages) or fraud. Routine cases include advertising violations, or improper inspections (minor or no financial damages).

**37. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?**

Board licensees are required by statute to disclose (by written report) their findings or recommendations for all items of WDO and pest control inspections, including work completed or not performed.

Pursuant to B&P 8690, surety bond companies and insurance providers are required to notify the Board within 10 days of any change or cancellation of bond.

County agricultural commissioners are governed by their ordinances and/or policies when to report pesticide use violations to the Board. The Board's laws do not prescribe any mandate or duty reporting requirements for cities, counties, or cities and counties for pesticide use violations.

Courts of competent jurisdiction do not have legal obligations to report violations or actions that it may take against a pest control company and/or licensee. However, the Board may embrace any court action pursuant to B&P Section 8632 to discipline a pest control company and/or licensee.

Except for certain duties/obligations imposed upon licensees, the Board's laws, rules and regulations do not place duty external to its licensing population.

**a. What is the dollar threshold for settlement reports received by the board?**

This does not apply to the board.

**b. What is the average dollar amount of settlements reported to the board?**

This does not apply to the board.

**38. Describe settlements the board, and Office of the Attorney General on behalf of**

the board, enter into with licensees.

- a. **What is the number of cases, pre-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?**

The Board does not settle cases that initially are referred to accusation.

- b. **What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?**

The Board settles a majority of its cases once the accusation is filed.

- c. **What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?**

The board does not have the technology to compile and report this data.

**39. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?**

Statute of limitations authority is defined in B&P Section 8621. All complaints against licensees or registered companies shall be filed with the board within two years after the act or omission alleged as the ground for disciplinary action. "Act or Omission" is typically established from the actual date of inspection, contract or when treatment or repairs ceased. In matters alleging fraud, the Board has jurisdiction for a period of four years after commission of the fraudulent act or omission.

The board shall file an accusation, a disciplinary action to suspend or revoke a license and/or registration, within one year after the complaint has been filed with the board, except that with respect to an accusation alleging a violation of B&P Section 8637, the accusation may be filed within two years after the discovery by the Board of the alleged facts constituting the fraud or misrepresentation.

Under B&P 8568, the Board has jurisdiction to deny an application or renewal of a license or registration in accordance with the statute of limitations governing administrative actions pursuant to 11500 of the Government Code.

Since the last Sunset report, the board has been unable to move forward with 11 cases due to the expiration of statute of limitations. In response to this issue, the Board has sought legislation AB 1590 to allow the board an additional 6 months to take disciplinary action. This bill was chaptered and filed with Secretary on September 25, 2017

**40. Describe the board's efforts to address unlicensed activity and the underground economy.**

The Board routinely investigates unlicensed activity and underground issues; this includes licensees operating under suspended or inactive licenses (including revokes). In addition, the board also pursues licensees who serve as ghost qualifiers. These are individuals who qualify licenses, but who do not actively participate in the business. This is a violation of 8506.2 of the Business and Professions Code. The Board sought legislation

in FY 2015-16 to remedy the issue of ghost qualifiers. AB 1874 was chaptered and became law January 1, 2016. The bill is described below:

**AB-1874** — This bill revised the definition of “qualifying manager” to require that the licensed operator be physically present at the principal office or branch office location for a minimum of 9 days every 3 consecutive calendar months, and required that these days be documented and provided to the board upon request.

Due to statute of limitations issues, however, the board recognizes that its highest priority is consumer protection pursuant to B&P 8520.1. The board allocates its resources to focus first on reactive complaints, complaints filed by consumers, before pursuing proactive complaints – complaints generated by the board pursuant to 8620 B&P to conduct audits, inspections and investigation of unlicensed/underground activities.

#### **Cite and Fine**

- 41. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the \$5,000 statutory limit?**

The Office of Administrative Law approved the Board’s cite and fine authority on September 12, 1998, promulgating section 1920 of the California Code of Regulations (CCR). In lieu of the Board filing formal disciplinary action for small or moderate violations, a citation without a fine or a citation with a fine is used alternatively. This process allows the Board to impose reasonable sanctions against licensees without the need to pursue formal discipline to suspend or revoke a license. This program also saves the state of California on the substantial costs associated with formal actions which are usually at least three times the costs of citation actions. The citation and fine program provides an effective method to appropriately address violations that would not warrant more serious discipline in order to protect the public.

The citation and fine program was used minimally the first year it was instituted, in 1999, but its use has increased dramatically during recent years. Please see Table 9c above for statistical information.

It should be noted that a single case could result in multiple citations. It is common for a company to have multiple licensees inspecting a single property, so a single case could have a citation issued to each licensee, as well as to the company and the company’s qualifying managers. Section 1920 CCR was amended to allow the Board to issue citations greater than \$2,500 up to \$5,000, effective September 1, 2013.



**42. How is cite and fine used? What types of violations are the basis for citation and fine?**

A citation and fine is used to pursue small to moderate violations. They are also used if a licensee has little or no history of past violations. Violations must not involve fraud or misrepresentation, criminal acts, elder abuse, substantial financial damages or other commonly recognized egregious violations if they are to be considered for the citation and fine process. Under CCR 1920, the Board considers the severity of the violation when basing its decision on the citation and/or fine:

1. The citation involves a violation that has an immediate relationship to the health and safety of another person;
2. The cited person has a history of two or more prior citations of the same or similar violations;
3. The citation involves multiple violations of the law or regulations that demonstrate a willful disregard; or,
4. The citation involves a violation or violations perpetrated against a senior citizen or person with a disability. [No acts of fraud or elder abuse]
5. In determining whether a citation shall contain an order of abatement or a fine and if a fine is to be imposed, the Board shall consider the following factors:
  - a) Gravity of the violation.
  - b) History of previous violations of the same or similar nature.
  - c) The good or bad faith exhibited by the cited person.
  - d) Evidence that the violation was willful.
  - e) The extent to which the cited person cooperated with the Board's investigation.
  - f) The extent to which the cited person has mitigated or attempted to mitigate any damage caused by his or her violation.
  - g) Such other factors as the Registrar or Deputy Registrar considers relevant.

**43. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?**

In the past four fiscal years, the Board has participated in 7 Disciplinary Review Committee (DRC) matters; the disciplinary review committee panel is authorized by statute, Business and Professions code (BPC), section 8660. The DRC hears appeals regarding

notices of proposed actions issued by local government pursuant to section 8617 BPC and makes its decisions pursuant to California Code of Regulations (CCR) 1922. The committee panel is composed of the following: one member representing the Director of Pesticide Regulation, one member representing the Board and one member who is licensed as a structural pest control operator actively involved in the pest control business. The committees' decisions described in paragraph five below are available at the California Department of Pesticide Regulations' (CDPR) website at: <http://www.cdpr.ca.gov/docs/mill/actions/drc/drcmenu.htm>.

Apart from the DRC, the Board has held 15 informal conferences (IC) in the last 3 fiscal years pursuant to CCR, section 1920. Unlike DRC, actions taken pursuant to CCR, section 1920 are issued exclusively by the Board and are usually a result of a Board investigation or inspection. If a matter is appealed, the licensee's case may be heard by a board panel as described in CCR, section 1920 (e)(1), which states: "The informal conference shall include at least one, but no more than two, industry members...." A Board IC panel characteristically includes one member of the Board and one board industry member. Please note that database data is limited to the last 3 fiscal years on informal conferences.

The Board received 2 requests for administrative appeals in the last 4 fiscal years. These are matters to be heard by an administrative law judge in lieu of the Board's IC panel. Both appeals were subsequently withdrawn by the licensees and the citations have been complied with.

DRC cases are listed below. Please refer to the source of this information if any additional questions, CDPR. (Please see <http://www.cdpr.ca.gov/docs/mill/actions/drc/drcmenu.htm>)

**Mega Fume, Inc., [Docket No. S-030](#)**

Agricultural Commissioner of the County of San Bernardino, County File No. 36-15-106S Mega Fume, Inc. appealed the structural civil penalty decision of the San Bernardino County Agricultural Commissioner to the Disciplinary Review Committee on November 29, 2016.

The Committee overturned the CAC's decision that Appellant violated California Code of Regulations, title 3, section 6780(c) by failing to follow the procedures outlined in the California Aeration Plan because section 6780(c) does not require Appellant to follow the procedures outlined in the California Aeration Plan. Rather, 3 CCR 6780(c) authorizes the Director of DPR to approve the California Aeration Plan.

The Committee's decision became final on January 26, 2017.

**Mega Fume, Inc., [Docket No. S-029](#)**

Agricultural Commissioner of the County of San Bernardino, (County File No. 36-15-115S) On November 23, 2016, Mega Fume, Inc. appealed the structural civil penalty decision of the San Bernardino County Agricultural Commissioner to the Disciplinary Review Committee.

The DRC upheld the CAC's decision that Mega Fume violated FAC 12973 by failing to properly store food during a structural fumigation as required by the registered label. The DRC found that the CAC properly exercised discretion to charge Mega Fume—as opposed

to the licensed Mega Fume employee present at the fumigation site—with violating FAC 12973 because the employee was acting within the scope of employment.

The DRC decision became final on March 13, 2017.

**Mega Fume, [Docket No. S-028](#)**

Agricultural Commissioner of the County of San Bernardino, County File No. 36-15-056S  
On November 21, 2016, Mega Fume, Inc. appealed the structural civil penalty decision of the San Bernardino County Agricultural Commissioner to the Disciplinary Review Committee.

The DRC upheld the CAC's decision that Mega Fume violated 3 CCR 6726 by failing to post information at a structural fumigation site about accessible emergency medical facilities. The DRC found that the CAC properly charged Mega Fume—as opposed to the licensed Mega Fume employee present at the fumigation site—with violating 3 CCR 6726 because that section applies only to employers.

The DRC decision became final on March 13, 2017

**Statewide Fumigation of San Diego County, Inc., [Docket No. S-027](#)**

Agricultural Commissioner of San Diego County, County File No. 630-SCP-SD-15/16  
Statewide Fumigation of San Diego County, Inc. (Statewide) appealed the structural civil penalty decision of the San Diego County Agricultural Commissioner to the Disciplinary Review Committee. The Committee affirmed the Commissioner's decision that Statewide violated Food and Agricultural Code section 12973 by using a pesticide in conflict with its labeling by failing to remove or double bag food from a fumigation site prior to the commencement of the fumigation.

The Committee's decision became final on November 2, 2016.

**Mega Fume, [Docket No. S-026](#)**

Agricultural Commissioner of the County of Santa Clara, County File No. 2431516  
Mega Fume, Inc. appealed the structural civil penalty decision of the Santa Clara County Agricultural Commissioner to the Disciplinary Review Committee on June 8, 2016. The Committee overturned the CAC's decision that Appellant violated California Code of Regulations, title 3, section 6780(c) by failing to follow the procedures outlined in the California Aeration Plan because section 6780(c) does not require Appellant to follow the procedures outlined in the California Aeration Plan. Rather, 3 CCR 6780(c) authorizes the Director of DPR to approve the California Aeration Plan.

The Committee's decision became final on August 23, 2016.

**Sergio Solorio, [Docket No. S-025](#)**

Agricultural Commissioner of the County of Orange, County File No. 31-SCP-ORA-13/14  
Sergio Solorio, an employee of Statewide Fumigation San Diego, appealed the structural civil penalty decision of the Orange County Agricultural Commissioner to the Disciplinary Review Committee. The DRC upheld the CAC's decision that appellant violated California Code of Regulations title 3, section 6600 when he failed to perform pest control in a careful manner. Specifically, appellant entered a structural fumigation site without safety

equipment or continuous monitoring prior to certifying the structure for reentry. He therefore violated the California Aeration Plan and in doing so, failed to perform pest control in a careful manner.

The DRC's decision became final on September 19, 2014.

**Mega Fume, Inc. [Docket No. S-024](#)**

Agricultural Commissioner of Los Angeles County, County File No. 12132151  
David Wadleigh, operator of Mega Fume, Inc. in Anaheim, California appealed the structural civil penalty decision of the Los Angeles County Agricultural Commissioner to the Disciplinary Review Committee. The DRC upheld the CAC's decision that appellant violated California Food & Agricultural Code section 12973 by failing to ensure that gas service had been terminated prior to fumigation as required by the pesticide label and found that the civil penalty was not excessive.

The DRC's decision became final on October 29, 2013.

**44. What are the 5 most common violations for which citations are issued?**

Five most common violations are noted below:

1. Business and Profession Code section 8593, Continuing Education Violation, Assessed 172 times
2. Business and Professions Code section 8638, Contract Violation, Assessed 127 times
3. Business and Professions Code section 8516, Inspection Report Violation, Assessed 116 times
4. Business and Professions Code section 8518, Completion Report Violation, Assessed 62 times
5. Business and Professions Code section 8635, Disregard of Specifications, Assessed 25 times

**45. What is average fine pre- and post- appeal?**

The Board does not include citations issued where additional evidence is submitted prior to the effective date of the Citation order, which is 30 days following issuance. These statistics include citations which have become a final order, have been modified, or when a proposed decision by an administrative law judge has been adopted by the Board. Citations which have been vacated or dismissed in an informal conference or formal hearing are included in the statistics.

Average Fine Pre Appeal			
2013-2014	2014-2015	2015-2016	2016-2017
N/A- Current database not kept at that time	\$631.00	\$898.00	\$1397.00



Average Fine Post Appeal			
2013-2014	2014-2015	2015-2016	2016-2017
N/A- Current database not kept at that time	\$599.00	\$801.00	\$1284.00

**46. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.**

The Board begun use of FTB intercepts in March of 2015. It has submitted for collection 24 cases as noted below:

1. SPCB Citation and Fines: 11 cases
2. County Civil Penalty Assessments: 11 cases
3. SPCB Accusation Decision: 1 case
4. SPCB Probation Case: 1 case

The total sum of cost recovery requested is \$20,488.40. FTB collected \$1,002.75. The SPCB has not received its percentage share of the collections.

**Cost Recovery and Restitution**

**47. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.**

The Board seeks cost recovery for each accusation case filed with the Attorney's General Office; however, the administrative law judge, based on court testimony and/or findings of fact, may or may not order cost recovery in the proposed decision. If the cost recovery order is contrary to the amount sought by the Board, the Board has no discretion to set aside the judge's decision unless it elects to non-adopt the proposed decision in its entirety. The Board, historically, has not attempted to set aside and issue its own decision if the issue is only cost recovery; decisions that are set aside involve other matters of law.

The Board, when considering settlement or stipulation terms, may waive or reduce cost recovery upon a respondent's showing of good cause. In general, good cause may exist if the cost recovery order is likely to inhibit the respondent's ability to comply with the order of restitution to the consumer. In addition, the Board may waive cost recovery if it results in the immediate surrender of a license (termination of the business) in the interest of justice. There have been no changes in the Board's policy from the last review.

**48. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.**



Over the last four fiscal years, the Board's average cost recovery order, whether issued by an administrative law judge or by Board stipulation, is approximately \$3,362 per case. This figure represents a total of 87 disciplinary cases, excluding the costs of statement of issues cases which, pursuant to Business and Professions Code, section 123, are not recoverable.

Of the 87 cost recovery orders issued in the last four fiscal years, board records show a ninety-four percent disproportionate rate of collection; in particular, an additional 6 cases are carryovers from prior fiscal years. These numbers still represent a relatively successful collection process and this is attributable to stipulated orders whereby the licensee's revocation is stayed and placed on probation in the interest of justice. Stipulations result in higher than average compliance since the licensee is permitted to maintain licensure under specific term and conditions of probation; this also gives the licensee financial latitude to provide restitution to an aggrieved party.

In addition to stipulated orders, the board has successfully revoked, unconditionally, thirty-two percent of all disproportionate cases referred for discipline. Collection of all cost recovery on outright revocations is relatively low given that reinstatement statistics show that only approximately 2.5 percent of disciplined licensees actually satisfy all conditions of reinstatement.

As illustrated in Table 9a, since 2014-15, the Board has averaged 42 revocations (revocations that are stayed with conditions and unconditionally) and 36 new probationers each year. The Board maintains an accounting of all cost data in the Consumer Affairs System (CAS), but does not have full reporting capability, a limitation in CAS, to cross-reference cases which have overlapping progress payments from one year to the next, also with different revocation or surrender effective dates. The number of probationers reported in each fiscal year cycle is not a 1:1 ratio of the number of stayed revocations or surrenders ordered, as probation tolling time varies from 1 year to 3 years and can be extended under specific conditions.

The Board's authority to recover costs is conditioned on the respondent's desire to restore or reinstate his/her license. Board statistics, Table 9a, outline that 21.3 percent of probationers have their licenses fully restored and approximately 2.5 percent of unconditionally revoked/surrendered licensees have their licenses reinstated. Restoration or reinstatement of licensure, in general, means that the respondent complied with any or all of the following conditions, not by limitation: 1. Cost recovery, 2. Restoration bond, 3. Restitution, or 4. Taking and passing a licensing examination.

**49. Are there cases for which the board does not seek cost recovery? Why?**

The Board seeks cost recovery on all accusation cases, excluding statement of issues cases. It is the Board's policy that cost recovery cannot be enforced on statement of issues cases.

**50. Describe the board's use of Franchise Tax Board intercepts to collect cost recovery.**

See response to question 44. The Board has submitted to FTB two cases to recover investigative costs. One case involves an accusatory matter and the second involves a probationary licensee. The Board recovered all costs concerning the probationary licensee in the amount of \$673.75. In the second matter, the FTB has not secured collection of the outstanding amount owed, \$1,409.65.

**51. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.**

The Board seeks restitution upon verification of damages stemming from structural pest control inspections and investigations. This is achieved by the Board in several ways:

- 1) If ordered by an administrative law judge;
- 2) Accepting any unsatisfied court judgments in favor of the complainant;
- 3) Valid estimates of repairs or corrections from other companies;
- 4) Verification of bond payouts or insurance claim payouts;
- 5) When Board field investigators have determined a loss following their inspection of the property;
- 6) If the consumer has paid more than the actual value of services rendered, the difference being the restitution amount;
- 7) As a condition in any stipulated settlement;
- 8) As a condition of an order of abatement;
- 9) The Board may require restitution in negligence cases where a company fails to pay a consumer, supplier, employee or subcontractor;
- 10) If a court of competent jurisdiction ordered restitution on an administrative, criminal or civil case, the Board ensures that the outstanding obligations are fully settled (or valid progress payments being submitted timely) before an applicant or licensee is permitted to practice pest control;
- 11) If the applicant or licensee has a past or pending administrative action with the Board, he/she must comply with the previously imposed restitution order(s). This includes licensees on probation; and,
- 12) Or as a condition following a disciplinary proceeding, or reinstatement of licensure proceeding, the issuance of a probationary license.

Restitution orders are based on pest control services rendered, or lack thereof. They also include, not by way of limitation, monetary damages that may occur as a result of failures of a structural pest control company to properly repair or correct structural deficiencies to a building, omissions in an inspection report that results in additional costs, purchase agreements that may unlawfully prejudice the consumer financially, or mechanic's liens which are recorded against a consumer's property that do not have a lawful basis.

<b>Table 11. Cost Recovery</b> (list dollars in thousands)				
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Total Enforcement Expenditures	470.6	415.3	441.7	447.3
Potential Cases for Recovery *	50	62	54	51
Cases Recovery Ordered	34	24	16	13
Amount of Cost Recovery Ordered	88.9	84.4	49.9	69.17
Amount Collected	32.6	144	43.3	55.7
* "Potential Cases for Recovery" are those cases in which disciplinary action has been Taken based on violation of the license practice act.				

<b>Table 12. Restitution</b> (list dollars in thousands)				
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Amount Ordered	6.5	34	33.8	140
Amount Collected	6.5	34	0	40

## Section 6 – Public Information Policies

- 52. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the board's website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?**

The Board continually updates its website to reflect upcoming Board activities, changes in laws or regulations, licensing and registration, and other relevant information of interest to our clients and stakeholders. Board meeting calendars are reviewed and approved by the Board at every meeting, and are posted on the website as soon as administratively feasible, usually within 30 days.

Prior to all Board meetings, the agenda is posted on the Board's website. This information is posted at least 10 calendar days prior to the meeting, and additional post-agenda items are added, such as board meeting material, as they become available. This information

remains available on the website indefinitely; the Board has archived information dating back to 2002. Minutes from each Board meeting are posted on the Board's website once they have been formally approved and adopted by the Board at the subsequent meeting. Once posted, they are kept on the website indefinitely.

**53. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings? How long to webcast meetings remain available online?**

The Board has been webcasting its meetings, contingent on DCA resources, since the last Sunset report. These meeting are available online for an indefinite period of time.

**54. Does the board establish an annual meeting calendar, and post it on the board's web site?**

The Board posts an annual meeting calendar on its website:

<http://www.pestboard.ca.gov/about/meetings.shtml>.

**55. Is the board's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?**

The Board's Consumer Complaint Disclosure policy and Accusation and Disciplinary Actions policy are consistent with DCA's standards. When feasible and to the extent permitted by law, the Board discloses license or complaint information in writing, in person, or by telephone (including fax or e-mail). The Board will disclose complaint information after a formal investigation has been concluded and when it has been determined that one or all of the following applies:

- 1) The complaint has resulted in a violation or warning (8622 B&P);
- 2) The complaint has been referred to citation;
- 3) The complaint has been referred to the Office of the Attorney General for filing of an Accusation or Statement of Issues; or
- 4) The complaint has been referred to another law enforcement entity or regulatory body for the assessment of fines or for prosecution.

Below is a breakdown of the Board's overall disclosure policy and its specific parameters as established by the Board. This policy allows members of the public to obtain from board records information regarding complaints made against pest control companies and their licensees, their history of administrative actions taken by the board, and license status.

"Complaint" means a written allegation which has been investigated and has been referred for administrative action against the licensee. "Administrative action" means referral of the complaint for the issuance of a citation, accusation, statement of issues, or for the initiation of criminal action or injunctive proceedings.

The Board maintains records showing the complaints received against licensees and, with respect to such complaints, shall make available to members of the public, upon request, the following information:

- (1) The nature of all complaints on file against a licensee which have been investigated and referred for administrative action against the licensee. Information regarding complaints which are in the process of being screened, mediated, or investigated shall not be disclosed.
- (2) Such general cautionary statements as may be considered appropriate regarding the usefulness of complaint information to individual consumers in their selection of a pest control company.
- (3) Whenever complaint information is requested, the information disclosable under items (c) and (d) below shall also be released.
- (b) If a complaint results in an administrative action and is subsequently determined by the Board, the Office of the Attorney General or a court of competent jurisdiction not to have merit, it shall be deleted from the complaint disclosure system.
- (c) The executive officer shall maintain records showing a history of any administrative actions taken against all current license holders and shall make available to members of the public, upon request, all the following information:
  - (1) Whether any current license holder has ever been disciplined and, if so, when and for what offense;
  - (2) Whether any current licensee has ever been cited, and, if so, when and for what offense, and, whether such citation is on appeal or has been complied with;
  - (3) Whether any current license holder is named as a respondent in any currently pending administrative action.
- (d) The executive officer shall maintain records showing certain licensing and bonding information for all current license holders and shall make available to members of the public, upon request, all the following information regarding current license holders:
  - (1) The name of the licensee as it appears in the Board's records;
  - (2) The registration number and license number;
  - (3) The license type and/or class held;
  - (4) The company's address of record;
  - (5) The branch office's address of record;
  - (6) The personnel under the company registration or branch;
  - (7) The date of original licensure;
  - (8) Whether a bond or cash deposit is maintained and, if so, its amount;
  - (9) If the licensee holds a current or cancelled bond, the name and address of the bonding company and the bond's identification number, if any.



(e) Limitation of access to information. Further, the executive officer may set reasonable limits upon the number of requests for information and the information to be disclosed.

**56. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?**

The Board provides public information regarding its licensees and registered companies upon request. Public information includes: name; license or registration number; address of record; license status; date license or registration was issued; expiration or cancellation date; bond and insurance information; information regarding citations, fines and orders of abatement; accusation and statement of issues information; and information regarding the final disposition in any disciplinary action. License and company registration verification information can be found by the public on the Board's website: [www.pestboard.ca.gov](http://www.pestboard.ca.gov).

**57. What methods are used by the board to provide consumer outreach and education?**

The Board currently provides five consumer publications and forty-three forms and publications to its license population. Executive staff of the Board also attends a variety of consumer and professional outreach events. These events have included presentations at board meetings, committee meetings, agricultural commissioners' offices, professional associations, and consumer events. County training as mandated by B&P Section 8698.5, the Structural Fumigation Enforcement Program, is also provided. Consumer satisfaction surveys, website news and newsletters, are also used.

## **Section 7**

### **Online Practice Issues**

**58. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate internet business practices or believe there is a need to do so?**

The board, routinely, investigates the actions of unlicensed enterprise. It is not uncommon that these complaints arise from internet business, but certainly can arise from other channels (i.e. anonymously). Complaint initiation is done pursuant to B&P 8620 whereby the board "on its own motion" may initiate proactive investigations, which includes audits and inspections.

Even though these enforcement practices are crucial to harmonizing the industry and safeguarding consumers, the board recognizes that its focus, firsthand, is to utilize its resources on reactive complaints and then all other matters. Reactive complaints which are filed by consumers are so sensitive such that statute of limitations can become an issue, unlike proactive complaints where statute of limitations commences upon discovery or knowledge.

Pursuant to B&P 8520.1, consumer protection is paramount and the board is statutorily obligated to treat consumer complaints as its highest priority.

## **Section 8**

### **Workforce Development and Job Creation**

#### **59. What actions has the board taken in terms of workforce development?**

The Board continues to adopt procedures to ensure a more streamlined process, allowing the registration of new businesses and licensure of applicants so that they may enter the pest control workforce. The Board monitors all aspects of its licensing and enforcement operations, consistently addressing issues to ensure the most salient process contributing to workforce development, both internally (its employees) and externally (consumers, licensees and local government). Central to this focus, the board has updated many of its forms and applications, participates in public outreach forums, and continues to monitor efficacy and make changes as they are needed.

For consumers, the Board's resources give helpful information about how to obtain a license and provide information about the elements of the complaint handling process. Indirectly, the Board has been contacted by consumers, complainants, and aspiring pest control professionals about how to start a pest control business.

For licensees and local government, the Board's resources foster pest control employer-based training as well as hands-on training which is available through Board-sponsored training. Volunteers from the pest control industry, employees of the Board and the Department of Pesticide Regulation work collaboratively in the provision of skills and needs based training for county inspectors.

#### **60. Describe any assessment the board has conducted on the impact of licensing delays.**

The Board has not conducted any assessment regarding the impact of licensing delays, due to a lack of operational necessity. Board renewals and original applications for licensure are processed within the Board's target of 10-30 days. Many renewals are processed on the same day. Because the Board's actual processing times are very low, board members have not directed the Board to adopt regulations for the establishment of processing baselines.

#### **61. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.**

With nearly 120 schools involved in some facet of pest control in California, it is the Board's policy to take a neutral position, particularly because the Board maintains general oversight of many of these programs and must maintain the integrity of license examination security. Therefore, the Board does not collaborate with schools directly or formally regarding licensing opportunities. Rather, communication is achieved informally by such methods as the Board's website information, forms and publications, or, situationally, in person or by telephone. The Board recognizes that schools, as a matter of practice, are very

resourceful, capable of accessing all the necessary tools from the Board's resources as well as from pest control associations to inform potential licensees of the Board's processes.

**62. Describe any barriers to licensure and/or employment the board believes exist.**

As noted in question 58, the Board's processing times are significantly low. In addition, the use of computer based testing, beginning in March 2014, has exponentially improved applicants' and licensees' access to examinations and their roadmap towards licensure.

**63. Provide any workforce development data collected by the board, such as:**

- a. Workforce shortages
- b. Successful training programs.

The Board, as a small entity of 29.5 employees, does not rely on strategic workforce management systems to assist in global workforce planning/decisions. These functions generally rest with the DCA's Office of Human Resources as part of administrative support or pro rata. Over the last four years, the Board has successfully filled its vacancies, on average, in less than one month using standard office procedures and chain-of-command communications practices amongst its employees and the Office of Human Resources.

Except for internal on-the-job training and its cross-training measures, the Board has not established an official internal workforce training program. However, an exceptional external training and development program is offered by the DCA to its employees and board members, free of charge. The DCA's program is called, Strategic Organization, Leadership and Individual Development (SOLID). SOLID provides a very comprehensive and wide array of programs for workforce development and leadership building; the Board staff has gained exceptional knowledge and aptitude from SOLID's organizational foci. SOLID offers traditional training by classroom instruction and also workshops, and training through its e-learning portal. Webinars/webcasts of live training sessions and archived sessions are readily available to Board employees at all hours of the day, year-round. Course content includes, but is not limited to, Time Management Essentials, Procurement, Business Writing, Resume Preparation, Stress in the Workplace, How to Write Procedures, Conflict Resolution, Negotiation Skills, and Telephone Customer Service Techniques.

SOLID Planning Solutions also provides training in the following areas, not by limitation:

- 1. Strategic Planning;
- 2. Meeting and Event Facilitation;
- 3. Process Improvement;
- 4. Leadership Competencies;
- 5. Upward Mobility; and,
- 6. Board Member Orientation Training.

The executive officer and management staff readily encourage employees to harness all that is available through this proven and reputable program.

In the external workforce or as otherwise known as the Board's stakeholders and the general public at-large, the Board's county training program has helped to shape the landscape of the structural pest control industry. For at least two decades, the Board has provided field training for every aspect of structural pest control to county agricultural programs. This training (which typically last three days) is hands-on, providing mock demonstrations of field practices that are typically encountered by county inspectors, including the use of tarpaulin and fumigation of buildings, inspection of pest control vehicles and inspection of structures. Training is provided by members of the pest control industry, Department of Pesticide Regulation and staff of the Board. The training is designed educate county programs and provide them the tools necessary to effectively carry out their enforcement goals and objectives. The Education and Enforcement fund provides the necessary funds for this training effort, B&P Section 8505.17. This training remains very successful to this day.

In the licensee workforce, the Board continues to work with the industry on prevailing issues of workforce safety, illness and injury prevention programs, and the practices associated with the pest control profession. The Board keeps licensees informed of changes in law and regulations and provides vehicles whereby licensees have opportunities to engage and comment on any material or relevant issues through board and committee meetings, rulemaking and legislation.

The Board also establishes cornerstone research into pest control practices which ostensibly serves as education and vital information to licensees on pest control trends and practices, particularly environmental safety on the use of pesticides. Consistent with public meetings or forums, licensees are availed opportunity to comment on research efforts and learn new and innovative methods in the practice of pest control, information that is subsequently relayed by pest control companies to their employees to promote job safety and growth.

The Board also mandates continuing education (CE) programs to ensure that licensees remain as fluent about industry practices as technology allows. CE programs are designed fundamentally to allow licensees to gain knowledge about their profession, but also educates them about safeguards for the public-at-large on the proper use and handling of pesticides. CE and other training efforts provided by the Board also elicit effective employer-based training programs whereby employers grasp the training modules and resources (schools and associations included) to effectively train and develop their workforces.

## Section 9 – Current Issues

### **64. What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?**

SB 1441 (Chapter 548, Statutes of 2008) was authored by Senator Ridley-Thomas, former Chair of the Senate Business, Professions and Economic Development Committee. SB 1441 created the Substance Abuse Coordination Committee and required the committee, by January 1, 2010, to formulate uniform and specific standards in specified areas that each healing arts board shall use in dealing with substance-abusing licensees.

Although the Board was not part of that legislation, it still has the responsibility to develop its procedures to determine acceptable criteria for rehabilitation. The Board staff, within the Criminal Offender Record Information Program, continues to analyze and update procedures and criteria surrounding whether a substance abuse crime or act is substantially related to the duties, functions or qualifications of a licensee.

The Board does not cooperate with any vendor for the management of diversion programs aimed at assisting substance abusing licensees to recover from their addictions, but the Board is receptive to programs that are geared to provide professional clinical guidance or opinion to Board staff when evaluating the circumstances associated with substance abuse issues and also to assist the Board in assessing if/when these individuals should be fit for reinstatement of a license or granting of an application for licensure.

**65. What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?**

Senator Negrete-McLeod introduced SB 1111 on February 17, 2010 to establish the Consumer Health Protection Enforcement Act. The purpose of the act was to broaden the scope of authority for disciplinary decisions, probation and collection of outstanding liabilities (i.e. fines, restitution and cost recovery), and using collection agencies to assist in collection efforts. On May 19, 2010, SB 1111 was placed inactive. The DCA reviewed SB 1111 and determined that some of the provisions of this bill could be implemented through regulatory changes. The DCA Legal Affairs Division was directed to develop the specific language and the Initial Statement of Reasons to serve as a template for boards/bureaus to use.

One significant result of the CPEI was the Board's initiation of fingerprinting requirements to be retrospective to all licenses issued prior to the effective date of SB 364, Figueroa, Chapter 789, Statutes of 2003, effective January 1, 2004.

Effective February 29, 2016, the Board updated its policy by promulgating regulations (CCR 1960) concerning Criminal Offender Record Information by requiring all licensees, whose licenses were issued on or before December 31, 2003, to submit to fingerprinting as soon as administratively feasible but no later than the date of licensure renewal.

**66. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.**

- a. Is the board utilizing BreEZe? What Release was the board included in? What is the status of the board's change requests?
- b. If the board is not utilizing BreEZe, what is the board's plan for future IT needs? What discussions has the board had with DCA about IT needs and options? What is the board's understanding of Release 3 boards? Is the board currently using a bridge or workaround system?

The Board is in phase 3 of the BreEZe project, which is anticipated to be released by Fiscal Year 2018-19. This system will be designed to accommodate, where feasible, stand-alone



databases, including the Board's WDO database.

The Board will continue to use CAS and other standalone programs until BreEZe is implemented. The Board continues to manage all day-to-day functions with its current IT infrastructure without setback or delay.

## **Section 10 – Board Action and Response to Prior Sunset Issues**

Include the following:

1. Background information concerning the issue as it pertains to the board.
2. Short discussion of recommendations made by the Committees during prior sunset review.
3. What action the board took in response to the recommendation or findings made under prior sunset review.
4. Any recommendations the board has for dealing with the issue, if appropriate.

### **ADMINISTRATIVE ISSUES**

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

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

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

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

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

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

Under the DPR, the Board did not finalize its 2012 Strategic Plan because it had learned that the SPCB would be transferred back to the DCA. Because the DPR and the DCA missions differed, it served as a basis for Board members, in its October 24-25, 2012 Board meeting, to stay final approval.



The Board, in its January 2014 meeting, met with the DCA's Strategic Organization, Leadership, and Individual Development program (SOLID) to approve the development of an updated strategic plan. SOLID will begin strategic planning sessions with the SPCB in October 2014.

**Update:** The Board finalized its Strategic Plan in June 2015.

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

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

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

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

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

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

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

Research provides valuable information to the industry and regulators on compelling or serious matters. The SPCB recognizes that in order for research to be purposeful, it must provide sufficient information to board members to assist them in the formulation of public policy decisions taking into full consideration industry and public concerns.



Research is not only informational and educational to consumers and industry, but it shapes the manner in which the SPCB conducts strategic planning and serves consumers. The development of license examinations, industry accepted pesticide usage practices and the development of laws and rules, among other areas, are results of research studies. In the absence of validated studies, the justification and implementation of public policy may be adversely delayed.

The component parts of the research process, as administered as a function of the board, have proven to be effective as it provides several checks and balances not available through a private or an industry driven program. Among those are the improved accounting of the Research Fund interest accruals that would otherwise, as the board understands, be difficult to transfer to the special fund if such monies were held in a private account, such as a state or federal bank (Ref. SB 991 Statutes of 1993 (Kelley)); this also eliminates as the board understands any recurring audits to be conducted by the DCA and the reimbursement of auditing costs. The public's ability to scrutinize recommendations and participate in public meetings, as well as the review and approval of RFPs and/or contracts with an independent entity (DGS) ensures that the decision-making process is not unilateral. The provision that the award of the contract requiring a two-thirds vote of the board (Ref. SB 2033 (Senate B&P Sunset Committee)) also assures maximum impartiality that otherwise would not be available through an industry or private sector program.

Payment of the pesticide use stamp fees collected by the SPCB, as the board understands, contemplates that the regulatory agency have a discernable interest in the fees that it collects and the manner under which research is to be publicly administered to the maximum extent and also properly vetting issues significant to the profession. An industry driven program could compromise research impartiality and costs, eliminates many transparencies as well as potentially disrupting current and proven fiscally prudent measures.

**Update:** The Board approved, in its January 2017 meeting, the current research format which eliminates consideration to use private industry. The Board moved forward with the approval of the Research Advisory Committee's recommendation on research topics. A draft RFP was sent to DCA for review in May 2017.

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

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

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



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

As of December 2013, the SPCB had three vacant positions: Assistant Executive Officer, Staff Services Analyst and Office Technician. Requests for Personnel Action (RPA) packages were submitted to the DCA in December 2013 for the respective vacancies. The Office Technician position was approved for recruitment in January 2014 and subsequently filled in February 2014. The RPA packages for the Staff Services Analyst and Assistant Executive Officer await final recruitment approval.

The reclassification of vacant positions is the DCA policy. The policy, in general, supports the recruitment of candidates into general classifications as opposed to specialist classifications in order to improve recruitment efforts. Reclassifications, overall, are permitted if the new position is in a comparable classification as defined by the California Department of Human Resources' rules. Hiring authorities typically do not incur time delays on reclassifications except to the extent of the period of time required to notice, if applicable, collective bargaining organizations which may vary time-wise, 15 to 30 days being the most common.

Prior recruitment delays, particularly for the executive officer, stem from the DPR's policy decision to use acting and interim appointments until it reclaimed hiring authority following the departure of the former executive officer. Also a contributing factor is a DPR policy decision as of December 2011 wherein DPR suspended recruitment efforts for the Executive Officer vacancy in anticipation of the Governor's proposed reorganization plan. From March 2011 through August 2013, the SPCB leadership included three different executive officers, two of whom served in acting and interim capacities.

**Update:** The Board has been able to fill its vacancies timely resulting in little to no impact to its operations. The Board also has established a field enforcement employment list in October 2016 as part of its succession plan efforts.

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

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

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



the Board's Internet web site.

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

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

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

The SPCB's transition from two departments within a three-year time period has required the SPCB to set various priorities with the DCA following its return on July 1, 2013. The DCA successfully recruited and hired the executive officer in August 2013, a vacancy that was previously over 2-1/2 years old. The SPCB subsequently has been working diligently to improve all facets of service delivery to its stakeholders and consumers by increasing bond and insurance requirements and revamping a core component of its program by implementing computer based testing. The SPCB also is moving forward with various legislative changes in 2014, making summary changes to the SPCB Act.

The Board recognizes the utility of providing online meeting materials, but has concentrated its priorities in other program areas for mission-critical reasons. The SPCB anticipates scheduling discussions for online meeting materials in its upcoming annual Board meeting in October 2014 to determine how the process will work and the anticipated timeframe in which it will begin. The Board fully supports sustainability measures (reducing paper products) and transparency in State government, recognizing that the use of online materials furthers that objective.

**Update:** The Board began posting online Board meeting materials in its March 2014 Board meeting.

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

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

Webcasting board meetings can also serve as a valuable publicly accessible archive, when the



video or audio of the board meeting is posted online so that past meetings can be reviewed at any time. Webcasting and archiving board webcasts serve to enhance transparency and public access to the activities of the Board.

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

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

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

The SPCB's transition from two departments within a three-year time period has required the SPCB to set various priorities with the DCA following its return on July 1, 2013. The DCA successfully recruited and hired the executive officer in August 2013, a vacancy that was previously over 2-1/2 years old. The SPCB subsequently has been working diligently to improve all facets of service delivery to its stakeholders and consumers by increasing bond and insurance requirements and revamping a core component of its program by implementing computer based testing. The SPCB also is moving forward with various legislative changes in 2014, making summary changes to the SPCB Act.

The Board recognizes the utility of webcasting, but has concentrated its priorities in other program areas for mission-critical reasons. The limiting factor for the DCA to provide department-wide webcasting will ultimately serve as a focal point of discussion in the coming months. The SPCB anticipates scheduling webcasting in its upcoming annual Board meeting in October 2014 to determine how the process will work and the anticipated timeframe in which it will begin. The SPCB will begin testing the webcasting format in the Sacramento area for board and committee meetings. This plan ultimately saves State costs to the DCA for travel and shipping of equipment. The SPCB also recognizes that webcasting board and committee meetings improve transparency in State government.

**Update:** The Board has been webcasting its meetings beginning with the October 2014 Board meeting to present, subject to DCA resources.

## **BUDGET ISSUES**

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

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

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

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

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

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

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

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

***Staff Recommendation: The Board should advise the Committees on the current status of the CBT pilot. The Committees should also appropriately consider any legislative proposals and their impact upon applicants, the pest control industry, and Board revenues. When does the Board anticipate that it will fully implement CBT?***

The Board will begin the CBT pilot in the third week of March 2014. The Board has publicly noticed all registered companies by regular mail and via its website regarding the commencement of the CBT pilot. The Board is communicating closely with the DCA's Office of Professional Examination Services and the CBT vendor to ensure timely delivery of CBT services.



The Pest Control Operators of California (PCOC), is sponsoring the CBT legislation, AB 1685 (Williams), introduced on February 14, 2014, that authorizes, if approved, an increase in examination fees, among other areas. If approved, the increase in fees would be effective no later than January 1, 2015. PCOC represents the industry and fully supports the fees described in the assembly bill. PCOC states that the fees will not impact applicants or impair the pest control industry in any manner.

Board revenues will be temporarily impacted until such time as its budget is augmented by AB 1685 to offset costs to administer the CBT program through the outside vendor. If the additional revenues are not fully realized, the SPCB would be required to terminate the pilot and return to the legacy examination system. The SPCB estimates a deficiency in revenue of approximately \$163,800 for calendar year 2014 to conduct CBT. In the Board's annual meeting in October 2013, Executive Officer, Susan Saylor reported that the CBT costs in FY 2013/14 would be approximately \$70,000. The budget impact for FY 2014/15 would be approximately \$82,000.

**Update:** The Board began its Pilot in March 2014. The Board sought legislation in 2013/14 Fiscal Year (AB 1685) to increase fees to cover its reasonable administrative costs, which was not to exceed \$60 for an applicator exam, \$50 for a field representative exam, and \$50 for an operator exam. AB 1685 was chaptered January 1, 2015.

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

**Background:** In its Sunset Review Report, the Board notes that 85 % of the Field Representative renewal fees for FY 2011-12 and FY 2012-13 were allocated to a special

revenue account administered by the Department of Pesticide Regulation when the Board was under its jurisdiction until July 1, 2013. It is unknown what the nature and authority is for this special revenue account. The Report further notes that the funds will be adjusted and appropriately reflected as a line item in the Board's Support Fund by the close of FY 2013-14.

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

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

The special revenue account code (RAC) is 125800-00: Renewal Fees. The purpose of the



account is to allocate all renewal fees that otherwise were not allocated within an appropriate line-item under 125800. The authority for the allocation of licensing fees to an agency's special revenue account is BPC 8676, The Structural Pest Control Board Fund, (Fund Code 0775).

In FY 2011-12 and 2012-13, approximately 85% of revenues collected for operator renewals (RAC 125800-1G ) and field representative renewals (RAC 125800-XB) were otherwise allocated into the main source account 125800-00 instead of the specific line-item to reflect those revenues.

The DCA Central Cashiering Unit processes the majority of the mailed renewal forms and payments using the Consumer Affairs System (CAS). This unit returns renewal forms requiring exception processing (e.g., change of address, lack of signature, etc.) to the appropriate DCA organization to resolve and complete the renewal process.

The SPCB processes all renewal exceptions using the DCA ATS system. SPCB generates a cashiering report each month for the renewals and this information is sent to the DCA's Central Accounting Unit for subsequent fiscal year-end reporting purposes.

The DCA Central Accounting Unit is the central hub for all fees collected including, but not limited to, revenue refunds, cash refunds, delinquent fees, dishonored checks and insufficient payments. Under an interagency agreement with the DCA, the DPR's accounting office worked in tandem with the DCA accounting office in the reconciliation and reporting of the FY 2011-12 and FY 2012-13 revenues and expenditures.

While CALSTARS reports reflect the 85% of revenue for operators' and field representatives' renewals during those two years, the separate amounts for those two items could not be identified; however, interest accruals in those accounts should not have been affected because the revenue was deposited in the Board's support fund.

**Update:** Completed. The revenue was deposited in the Board's support fund in FY 2012-13 pursuant to BPC 8676.

### **LICENSING ISSUES**

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

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

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



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

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

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

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

The Board will schedule this issue in its upcoming Board meeting in October to approve promulgation of fingerprinting regulations. New fingerprinting procedures will require any current licensees previously not fingerprinted to be fingerprinted if they make any changes to their address, employment, qualifying manager or corporate officer. The Board anticipates that regulations will be operative no later than January 1, 2016. The Board will notice all interested parties, the industry and the legislative committees of the progress and outcome of rulemaking as required in the Administrative Procedure Act.

**Update:** The Board promulgated regulations, effective February 29, 2016, authorizing fingerprinting for all licenses issued on or before December 31, 2003. All licenses subject to renewal on June 30, 2016 and thereafter are subject to the revised fingerprinting requirements.

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

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

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

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

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

Two individuals were arrested on felony charges for helping people cheat on state licensing exams following an investigation by the Department of Consumer Affairs' Division of Investigation. Larry C. Holmes, Jr. and Persilla Marie Ulloa were arrested in January in southern California following an investigation into their business, ACEAPP Training. Investigators determined the two illegally obtained exam material for 12 different state-administered exams. The investigation began at the request of the Structural Pest Control Board, whose staff noticed certain irregularities. Both Holmes and Ulloa face 24 felony charges in Los Angeles County Superior Court. Due to the pending criminal case and the evidence secured, the SPCB does not have any additional information to report about the details of the examination subversion at this time.

As a result of the examination subversion in February 2013, the Board cancelled all six of its examinations for a one-month period, costing the Board approximately \$38,000. The Board worked closely with the DCA's Office of Professional Examination Services to update all the examinations from that period forward. The examination compromise intensified Board's efforts to move from a booklet, paper and pencil examination to computer based testing (CBT). CBT offers the highest security available for testing environments on computer terminals. CBT digitally randomizes test questions and, among other things, requires the candidate to remove personal items (e.g. electronic devices, jewelry and eyewear) and articles of clothing that may be used in the concealment of the same.

CBT will allow the Board to provide ongoing test development and validation with the DCA's Office of Professional Examination Services (OPES). OPES offers monthly workshops, secures the services of subject-matter experts, conducts examination question analysis and reviews/rewrites test questions, as needed, to ensure examination accuracy and relevancy. OPES workshops are an ongoing service provided by the DCA.

**Update:** Completed. Please refer to response to Staff Recommendation.



## **ENFORCEMENT ISSUES**

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

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

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

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

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

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

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

**Staff Recommendation:** *The Board should inform the Committees whether a consumer can contract away the ability of the Board to discipline a licensee. The Board should*

***Speak to whether it is precluded from maintaining substantive jurisdiction when pest control contractual contingencies are waived. If there are violations by the licensee, what would make the Board unable to take action? Is it a matter of whether the Board is precluded from taking action, or is it a matter of Board policy? Does the Board recommend any legislation to clarify the Board's ability to protect consumers in this area?***

The Board's ability to take action is based on evidence rules, verified proof of violations and the application of the provisions in existing laws and other laws.

The Board recognizes that sellers in general cannot contract away their obligations by use of property sales agreements containing as-is provisions for residential properties of 1-4 units (See *California Civil Code 1102.4*, also see *"Disclosures in Real Estate Transactions" 2006 from the California Bureau of Real Estate*); however, the proof necessary for the Board to substantiate whether a seller (and/or agent) properly discloses the property condition upon a property transfer disclosure to the buyer or whether the buyer reasonably inspected the property or did not have reasonable knowledge nor previously agreed to the property's condition prior to transfer presents significant evidentiary issues.

It is not uncommon, in the current and more recent years that California real estate agreements involving short sales, foreclosures and bank-owned property may impose waivers of termite inspections. In recent months, the use of As-Is transactions appear to be on the decline due to a resurgence in the real estate market in California.

However, in those cases where As-Is sales are still used, lenders may require a real estate clearance as a condition of sale (and/or as a condition of a loan). The real estate clearance is a document signed by the buyer clearing or waiving specific conditions, such as termite inspections. In doing so, the buyer is functionally stating that he/she will take responsibility for the termite repairs. Even though a buyer may agree to this contract provision, it does not prevent the buyer from still using a termite inspection whereby the buyer may offset the purchase price in recognition of potential termite repair costs.

Real estate agreements (California Civil Code Section 2985) as prepared by real estate professionals, attorneys or others, must be fully reviewed by Board staff to evaluate if pest control violations exist and, if so, the appropriate remedies available. The Board, to enforce the provisions of the pest control act, generally must consider proof by clear and convincing evidence to uphold alleged violations. In general, the Board must fact-find by obtaining all pest inspection reports (including relevant property inspections, soil inspections, building permits, etc.), all escrow papers and related documents and interview all persons associated in any manner with the real estate purchase. Physical inspection of the property by Board staff is also an option where feasible (if evidence is not altered for instance or subsequent repairs being made by the seller or buyer without substantiation) to determine if violations exist. Though witness statements are generally supportive, they cannot be relied upon solely but must be verified by the very contract documents the parties executed as well as other tangible documentation (i.e. e-mails, letters, or repair contracts) to assess the relevancy or materiality of the dispute.

"As-is" sales and purchase agreements that fully disclose all "known" or "should have been



known” pest conditions on the property, leave no recourse administratively since the buyer is deemed fully aware of the property condition and would otherwise be able to dispose of any termite issues by reducing the final sales price or requiring repairs prior to taking title of the property. In other cases, such as cash purchases or transactions not involving a real estate professional or an attorney, pest control inspections may not be exercised at all and this precludes the Board’s ability to assert jurisdiction as well.

The Board continues to maintain substantive jurisdiction only in cases where a crime, fraud or misrepresentation (or similar) takes place on the part of pest control company (i.e. certification of work that was never performed) regardless of contractual contingencies or disclosures between the seller (seller’s agent) and buyer. The vast majority of Board complaints, however, do not involve these high-level violations. If other violations exist, not by way of limitation, they must be of the kind where the company actually performed work but improperly or failed to report readily accessible items and those items become material in a dispute. If a company does not actually perform improper physical work to the property, it cannot be held to monetary damages administratively in this sense.

The Board understands that current property disclosure laws are limited to 1-4 dwelling units, so 5 or more residential units may impair a buyer’s ability to make an informed purchasing decision. In the case of negligent inspections where the Board otherwise would not be able to prove a violation due to evidentiary issues, the Board believes that a form of alternative dispute resolution, specifically arbitration, may be the appropriate recourse in those limited cases where pest control monetary disputes arise and where civil litigation or administrative recourse is not possible or viable. Arbitration also may be used in alleged improper work cases where the

Board otherwise would not be able to substantiate violations. The Board discusses the proposed arbitration program under Issue 12 of this report.

If the committee believes that changes are necessary, legislation and/or amendment of regulations in the real estate codes, civil codes and code of civil procedure may be necessary as well as changes to specific areas of the SPCB Act, commencing with BPC 8514 through 8519.5 as well as implementing regulations, commencing with CCR 1991 through 1998. There may be other pertinent sections as well as this list is not intended to be all-inclusive. Implementation of an arbitration program may require a cost analysis and/or studies to substantiate costs and efficacies as well as various control agency approvals before moving to the legislature. Unless actions dictate otherwise, final approval in consideration of this program would likely be initiated through the 2017 Sunset Bill.

**Update:** Completed. Please refer to response to staff recommendation.

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

**Background:** The Board has raised the issue of the underground pest control industry in its Sunset Review Report. Specifically the Board notes that individuals and companies that fail to report their work to avoid compliance with tax, licensing, and labor laws. The underground economy includes licensed and unlicensed practitioners, an area of the industry that appears to be growing, according to the Board, especially in the last year. The Board believes this rise is

largely due to rising unemployment, a decline in savings and retirement, and the reduction of various income assistance programs (such as unemployment compensation).

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

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

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

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

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

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

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

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



The Board scheduled discussion of this issue in prior Board meetings in October 2012 and January 2013. The Board in its last meeting agreed to table this matter until it obtains a sufficient knowledgebase from the actions and challenges faced by other agencies.

Throughout the 2013 campaign, investigators of the SPCB collaborated with Department of Industrial Relations (DIR) staff in an effort to focus on certain questionable pest control businesses. Although efforts to take action against those businesses for failure to comply with occupational safety or employment taxes has not achieved results at this time, the SPCB will continue to work with DIR to set new goals and priorities in the months ahead. The Board also will continue to seek the input and advice from other agencies as recommended by the committee in order to most effectively pursue this enforcement issue.

The Board, per the Sunset committee's recommendations, will discuss this issue in its upcoming October meeting.

**Update:** Although earlier Board reports noted a potential rise due to varying factors, the presence of underground activity has not been significant in the structural pest control industry. This may be a result of rising employment and housing over the preceding 3 or 4 years.

The Board continues to conduct proactive investigations against the underground economy and has taken major steps to curtail what it has recently identified to be the most prevalent issue associated with the underground: ghost qualifiers. The Board sought legislation to eliminate this practice in Fiscal Year 2015 / 2016. AB 1874 was chaptered and became law January 1, 2016. This bill is described below:

**AB-1874** — This bill revised the definition of “qualifying manager” to require that the licensed operator be physically present at the principal office or branch office location for a minimum of 9 days every 3 consecutive calendar months, and required that these days be documented and provided to the board upon request.

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

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

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

complaints.

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

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

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

The DRPA was designed to support the provision of conciliation and mediation services to a wide cross-section of the population. The programs funded by DRPA work to settle disputes that divide neighbors, families, co-workers, and communities including disputes that can escalate to the point of violence or community-wide strife. Conciliation and mediation is a process that brings people together to solve their disputes collaboratively, focusing on common interests rather than on adversity. Conciliation and mediation in general and community-based conciliation and mediation in particular, are an especially successful way for community members to solve problems. It is typical for programs to find that over 80% of conciliations and mediations result in a resolution and participants commonly give high marks for satisfaction with the process.

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

The Board currently uses the list of DRPA mediation and conciliation programs approved under the blanket of the Department of Consumer Affairs. Board staff continues to assist consumers by providing alternatives to costly litigation through referral by way of mediation and conciliation services offered by city, county and private organizations. Certain complaints that lack the necessary evidence to move forward may be appropriate for DRPA mediation (i.e. consumer claims a pest control company of negligence for failure to lock a door that results in a home burglary).



The Board also is considering patterning an arbitration model adopted by the Contractor's State Licensing Board (CSLB) as a viable alternative to disputes for the consumer and industry that are strictly monetary. The Board will be contacting the CSLB to ascertain program costs and savings, program functions, and program efficacy. The Board recognizes that legislation must be approved (including fiscal appropriations) and regulations adopted to effect such a program. The Board anticipates that staffing levels and revenues must increase to implement this program. Program implementation may take 3-5 years following control agency and, if necessary, Sunset Review Committee approvals.

In the Board's upcoming October Meeting, it will discuss in a public forum the utility of an arbitration program concept. If the Board approves the concept, following concurrence from the Sunset Review Committee if necessary, the Board will then initiate studies to address program efficacy and costs. If such a program makes sense, the Board will seek final approvals in the next Sunset Bill in 2017.

**Update:** The Board's intake program provides a high degree of ADR principles and practices. Among those are mediation and conciliation. When the Board updated its Strategic Plan for 2015-2018, consumer arbitration was deferred for future consideration; position authority also was deferred for future consideration.

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

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

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

The Board uses citations and fines to impose reasonable sanctions against licensees without the need to pursue formal discipline to suspend or revoke a license, thus saving the Board substantial costs associated with formal actions for lesser violations. A citation and fine is also used if a licensee has little or no history of past violations. The Board states that violations



must not involve fraud or misrepresentation, criminal acts, elder abuse, substantial financial damages or other commonly recognized egregious violations if they are to be considered for the citation and fine process.

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

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

The number of citations issued is a factor of receipt of complaints and proof of violations. Though the number of citations issued is slightly less than in prior years, the numbers issued are still quite comparable, collections wise. The Board recognizes that the issuance of fines have been disproportionate such that compliance for the assessment of larger fines results in higher modifications as well as non-payment or a failure to collect. However, the assessment of smaller fines as indicated (these are fines that appear to be far more reasonable comparatively) results in a higher percentage of compliance/collections, fewer modifications and better use of staff resources (i.e. fewer hearings and shorter payment installment plans).

In FY 2012/13, the amount collected, percentage wise, far exceeds the percentage collected in FY 2010/11 where the total amount of fines assessed (\$223K) is nearly double the amount assessed in FY 2012/13 (\$132K). In comparison of these figures, FY 2012/13 resulted in higher collections and compliance despite a reduction in total fine amounts assessed.

**Update:** Completed. Please refer to response to Staff Recommendation.

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

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

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

It does not appear that the Board states in its Sunset Review Report whether or not it has lost any cases due to the expiration of the statutes of limitations. It would appear that the requirement for the Board to file an accusation against a licensee within one year of the time

the complaint is filed with the Board could easily lead to cases being dismissed due to the accusation not being filed within one year. In order for an accusation, to be filed, several procedural steps must occur which can greatly extend timeframes and threaten meeting the one year requirement. The Board must: 1) receive the complaint, 2) investigate the complaint, including developing the administrative case, and 3) refer the case to the Attorney General's (AG) Office. After this, the case is with the AG and largely out of the Board's hands. The AG must draft and file the accusation. This can be a time-consuming process.

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

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

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

Over the last three fiscal years (FY 10/11, FY 11/12, and FY 12/13), the Board has averaged 11.6 complaint closures due to statute of limitations constraints. These complaints were received at the initial intake level with no formal investigation or mediation taking place. A sampling of these cases shows that approximately two-thirds exceeded the 2-year act or omission period, but still came within a 3-year period. In addition, available Board records reveal that there have been 4 cases (1991, 1996, 1999 and 2006), which were scheduled for formal hearing for disciplinary purposes (Accusation) and one citation and fine, that were formally dismissed in the last 24 years due to statute of limitations issues. The Board has not experienced untimely filings of accusations from the Attorney General.

The Board believes that additional time to file a complaint should be extended to at least 18 months to two years for citations and accusations, despite the actual number of statute of limitations cases being relatively small. Current statute only allows the filing of any accusation within one year of receipt of a verified complaint in writing. Citations do not have this provision

and may only be issued within the act or omission period of 2 or 4 years without benefit of the additional 1-year filing period currently available for accusations. Based on SPCB statistics discussed in the preceding paragraph, it would appear reasonable to extend the 2-year act or omission provision to 3 years and the 4-year provision for fraud to 5 years. It is not likely that there would be industry opposition to this proposal.

On the other hand, a statute of limitations consistent with the CSLB's law BPC 7091(a), patent defects, where potentially the SPCB's jurisdiction increases to 4 years for all complaints with the addition of the 18-month allowance, may be a sensible alternative. It is not likely that there would be significant opposition from the industry to this proposal.

Though some consistency with the CSLB law may be appropriate, the SPCB does not believe that a latent defect statute of limitations for a period of 10 years (BPC 7091(b) improves consumer protection in the pest control industry. The Board understands that the civil latent defect law (California Code of Civil Procedure §337.1 and §337.15) was intended to address new or major reconstruction projects, surveying, design, etc. although notably exceptions apply. The CSLB law (BPC 7091 (b)(1)(2)) is limited in scope to its civil counterpart, but provides consumers administrative recourse in lieu of civil remedies. Structural pest control repairs, which usually are smaller projects, require extensive reporting and disclosure requirements not available in the latent defect laws, civilly or administratively. These SPCB disclosure and reporting requirements are outlined in BPC 8514, 8516, 8517, 8518, 8519 and 8538 to name a few. These reporting requirements define those areas of a structure that are readily discoverable or apparent by reasonable inspection and those areas that are inaccessible or hidden. There are extensive SPCB regulations as well, commencing with 1991, 1993, 1996 and 1998 which further defines the manner in which certain disclosure and reporting requirements are to be effected. Real estate laws also require realtors to provide certain disclosures concerning SPCB certifications and completion notices (BPC 10148), including Civil Code section 1099 (inspection report, certifications and completion notice), and Title 10, CCR 2905 (inspection report, certification and completion notice).

Many pest control companies state that it is customary to subcontract construction work to a contractor licensed pursuant to 7000 BPC. In such instances, consumer protection is strengthened for real estate and other transactions which must require all or many of these specific pest control disclosures and reporting requirements as well as the additional CSLB protections, where applicable, under their latent defect law.

Home inspectors licensed pursuant to BPC 7195 maintain a statute of limitations for 4 years; there is no ten-year latent defect provision.

It is likely that the pest control industry would oppose a latent defect statute of limitations based on the foregoing.

If the committee desires changes in this area, rulemaking would not be necessary to implement the statute.

**Update:** In response to this issue, the Board has sought legislation AB 1590 to allow the board an additional 6 months to take disciplinary action. This legislation was chaptered and filed with Secretary of State on September 25, 2017.



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

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

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

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

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

The Board does not object to increasing the record retention period if such an extension favors consumer protection. It is sensible to gear the retention statute to the period of time allowed to take action on any complaint as provided in one of the SPCB's statute of limitations proposals discussed earlier.

The Board, however, would like to share with the committee its concerns should the record retention statutory period be increased. Record retention basically serves as a means to audit a company, independent of a consumer complaint. Consumer complaints on the other hand are intended to accomplish different objectives and documentation from the consumer is all that is needed in many cases. The Board believes that it may be argued that the three-year record retention period is sufficient and that no inconsistency in the enforcement of the act exists. For instance, in order to pursue a case against a licensee for fraud for purposes of disciplinary action, the burden of proof is on the Board and not the licensee to make such records available. This is supported by 11500 of the Government Code and by numerous higher court decisions for at least several decades. Most documentation, if requested, need not be produced by the licensee without at least an administrative subpoena. If a criminal investigation ensues, the Board must obtain a search warrant irrespective of what the retention statute's authority provides.

In general, if a fraud issue is to be pursued, the elements and or documentation of the fraudulent act are invariably available from the complaining party who usually maintains the pertinent records or documents. Fraud usually involves money, which generally, not always, can be proven by obtaining cancelled checks or bank statements from the complainant and following a depository trail. There are numerous other investigative techniques to procure evidence that do not rely on records provided by the licensee. It is not expected that the licensees will furnish such information (particularly if they know that the documentation will incriminate or impose sanctions upon them, in which case the licensees will likely destroy the records). BPC 8652 does not require the licensee to furnish financial records, which otherwise is a basis for many fraud disputes. Fraud cases, in brief, tend to be difficult to prove because of the need to substantiate intent; though records may be helpful, they are not always conclusive.

The availability of records for a period of three years provides a minimum level of compliance for administrative purposes. It is particularly very useful when considering warning letters, notices of noncompliance or citation and fines. County commissioners, as guided by the Food and Agricultural Code, also follow a three-year record retention policy for registered pest control companies. The Board understands that the Internal Revenue Code (IRS) provides foremost a three-year statute of limitations for audits (see U.S. Supreme Court Decision, *U.S. v. Home*

*Concrete & Supply LLC* 2012). In keeping with primary federal records requirements together with the burden of proof in fraud matters, changes in BPC 8652 may not offer any greater public protection, particularly for financial disputes since this law is restricted in the production of financial records. Fraud actions can be pursued without regard to BPC 8652, particularly in the case of criminal actions. Pursuit of discipline by way of accusation alleging BPC 8652 is not necessarily actionable either unless more severe violations exist. BPC 8652 is certainly a corroborative violation, but seldom if ever a standalone disciplinary violation if the only cause is the failure of the licensee to produce the record(s) requested; records the licensee may have already destroyed. Issuance of non-compliance orders or the issuance of citations, arguably, can extend the retention period effective the date of the order and/or where the order requires an order of abatement (i.e. 180 days). The Board also could initiate any action regarding an order of noncompliance within one year of the findings or wrongdoing (BPC 8620).

There are numerous other sections in statute tied to a three-year provision. This includes the triennial renewal of licenses (BPC 8590 and 8590.1). A licensee's failure to renew timely within three years subjects the license to cancellation, requiring a new license to be obtained (BPC 8591 and 8560). A three-year provision is also included in BPC sections 8505.13, 8516, 8518, 8572 and 8618.

An increase in the records retention statute consistent with statute of limitations may be appropriate in certain cases; however, underlying considerations when fraud investigations are being performed do not necessarily rely on a record retention statute (particularly for financial fraud disputes), but emphasis is more likely to be placed on other evidence considerations. It is likely that any changes in this area may be opposed by the pest control industry.

If the committee considers the record retention statute for amendment, conforming changes to other provisions in the Board's laws would require the same.



**Update:** Completed. Please refer to response to Staff Recommendation.

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

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

In 2008, BPC § 8555 (g) was held unconstitutional by the 9th circuit (*Merrifield v. Lockyer*, 547 F.3d 978, 990 (9th Cir. 2008)). Alan Merrifield, was an unlicensed operator of a pest control business and trade association. His business engaged in non-pesticide animal damage prevention and bird control. In 1997, he was sent a warning letter from the Board stating that his business activities require a license, because he advertised and conducted rodent proofing.

Merrifield never applied for a license and claimed none was necessary for his business activity because he did not use pesticides.

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

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

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

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

The purpose of the initial exemption is best explained under testimony of Mr. Eric Paulsen, the Board’s expert for the Merrifield v Lockyer case (2008): “...Paulsen explained that the California



legislature decided to change its structural pest licensing requirements after Assemblywoman Valerie Brown received complaints from constituents who wanted to exterminate pests with 'homemade concoctions' that fell within the Branch II requirements but were not purchased as pesticides. They sought 'to have their own license that dealt with their specialty.' However, Paulsen explained, the legislature did not want to create 'additional licensing categories' and thus the question became whether to exempt persons who did not use 'dangerous pesticides.'"

Historically, the Board, as in this case, may issue a warning to a person/company before it considers issuance of a non-licensee citation for the practice of pest control without a Branch 2 license. Repeated violations may result in criminal action.

The distinction of vertebrate pests was used by the Board as a basis to differentiate those pests that invade structures and those that generally do not; the latter being more appropriately under the authority of Fish and Wildlife licensure requirements. The Board believes, in light of the Merrifield decision, that it should no longer provide this distinction in statute. The Board's Act Review Committee, charged with recommending amendments to law, proposes the deletion of vertebrate pests in its entirety from the statute. The Act Review Committee will forward its recommendation to Board members during the Board's April 2014 public meeting.

**Update:** Deferred. No further action appears warranted at this time, due to lack of evidence of consumer harm by these practitioners.

### **TECHNOLOGY ISSUES**

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

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

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

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



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

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

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

The Board has not participated in any aspect of the BreEZe project at this time. The Board is scheduled for phase 3 of the project, slated for some time in 2015 as opposed to September 2014, but no specific date has been established. Discussions regarding the Board's costs to implement BreEZe will take place as soon as a roll-out date to test the system is determined.

**Update:** Board staff met with DCA in July 2017 to discuss steps necessary for the BreEZe roll-out. DCA estimates that the Go Live date will be on or around January 1, 2021.

### **OTHER ISSUES**

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

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

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



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

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

The Board's Act Review Committee has been meeting since September 2011. The committee hearings have permitted various cross-sections of concerned individuals and interested parties opportunities to comment and propose amendments. The committee met most recently on March 5, 2014 for the submission of 39 statutory amendments. Their recommendations will be submitted to Board members for formal approvals in the Board's March 27, 2014 Board Meeting.

**Update:** Completed via legislation in 2013/14 Fiscal Year, SB 1244.

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

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

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

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

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

## Section 11

### New Issues

This is the opportunity for the board to inform the Committees of solutions to issues identified by the board and by the Committees. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.
2. New issues that are identified by the board in this report.
3. New issues not previously discussed in this report.
4. New issues raised by the Committees.

The Board has successfully addressed all prior issues in the last sunset review as identified in Section 10.

## Section 12

### Attachments

Please provide the following attachments:

- A. Board's administrative manual.
- B. Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).
- C. Major studies, if any (cf., Section 1, Question 4).
- D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).