

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
Division 19
DEPARTMENT OF CONSUMER AFFAIRS
STRUCTURAL PEST CONTROL BOARD
FINAL STATEMENT OF REASONS

Hearing Date: No hearing was requested.

Subject Matter of the Proposed Regulation: Fees

Sections Affected: California Code of Regulations (CCR), Title 16, sections 1936, 1936.2, 1948, and 1997.

Initial Statement of Reasons Updated Information: The Informative Digest and Initial Statement of Reasons (ISOR) is included in the rulemaking file and incorporated as though set forth herein. The information contained therein accurately reflects the position of the Structural Pest Control Board (Board/SPCB) regarding the amendment of the above sections.

The ISOR is updated as follows:

The 45-day public comment period began on January 10, 2025, and ended on February 24, 2025. The Board's notice indicated that the Board did not intend to hold a hearing on the matter, unless requested. No request for a hearing was received by the Board during the 45-day comment period and no hearing was scheduled.

During review of the regulation text in preparation for publication, the Executive Officer authorized non-substantive changes to the application forms. There are no differences between the originally noticed text and the final text submitted to OAL. The non-substantive changes were as follows:

Operator License Application

1. Make the first instance of "Operator" in the "Important" section lowercase since that is how it appears in the current form.
2. Restore inadvertently omitted **"the"** between "Check" and "branch(es)" in Question #1.
3. Restore **"(optional)"** in Question #9 since it is present on the current form and strike for deletion.
4. Correct **"Employer"** to **"Employer's"** in Question #11 for grammatical accuracy.
5. Restore **"the"** after "Give the names and the addresses of" in Question #15 since it is present on the current form and strike for deletion.
6. Standardize capitalization in Questions #16, #28, and the "Notice on Collection of Personal Information" ("Notice") section.
7. Revert **"Provide details of"** to **"Submit"** in Questions #18 and #19.
8. Restore omitted paragraph above the certified true statement since it is present on the current form, and strike for deletion as unnecessary and duplicative

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because the contents of the paragraph are found in the “Important” and “Notice” sections of the application.

9. Remove addition of a **comma** after “below” in the “Certified True Statement” because it is grammatically unnecessary.
10. Capitalize “**The Department of ...**” in the final paragraph of the “Notice” section for consistency with the preceding paragraph.

Field Representative License Application

1. Restore omitted payment instruction language at the top since it is present on the current form and strike for deletion.
2. Make the same grammatical and capitalization corrections as in the Operator application (Questions #11, #16, #18, #19, #28, and the “Notice” section).
3. Deleting “**the**” in Question #15 is unnecessary, as it is absent from the current form.
4. Restore inadvertently omitted **YES/NO checkboxes** in Question #26.
5. Remove addition of a **comma** after “below” in the “Certified True Statement” because it is grammatically unnecessary.
6. Correct the Business and Professions Code (BPC) reference in the “Notice” section from “**8562**” to “**8564**” for accuracy.
7. Capitalize “**The Department of ...**” in the final paragraph of the “Notice” section for consistency with the preceding paragraph.

Applicator License Application

1. Clarify fee reference in the 5th bullet item.
2. Update the **footer revision date** to match other forms (**Rev. 08/2024**).
3. Change “**apply**” to “**qualify**” in Question #11 for consistency with other applications.
4. Remove an extra **question mark** in Question #12.
5. Deleting “**the**” in Question #13 was unnecessary, as it is absent from the current form.
6. Add subparagraph “(C)” identifier to Question #21 for consistency with other applications.
7. Standardize capitalization in Questions #26 and the “Notice” section.
8. Restore omitted paragraph above the certified true statement since it is present on the current form, and strike for deletion as unnecessary and duplicative because the contents of the paragraph are found in the “Important” and “Notice” sections of the application.
9. Remove addition of a **comma** after “below” in the “Certified True Statement” because it is grammatically unnecessary.
10. Correct the BPC reference in the Notice section from “**8562**” to “**8564.6**” and make “**Title**” lowercase.

As a result, the Board reviewed and discussed the proposed regulatory text with the non-substantive amendments and ratified the changes at the March 12, 2025, meeting.

Additionally, the rulemaking file was reopened solely to make a non-substantive change to the proposed regulatory text. Specifically, the Board removed BPC sections 30, 31,

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and 494.5 from the “Reference” citations from CCR section 1936 and 1936.2. Although these sections are cited within the incorporated-by-reference forms, they are not statutes being implemented or interpreted by the regulation or the forms. This change does not alter the effect of the proposed regulations and is reflected in the final text submitted to OAL.

Determination of Local Mandate: The proposed regulation does not impose any mandates on any local agencies or school districts.

Summary of Comments: The SPCB received eleven (11) comments pertaining to the proposed regulation during the 45-day comment period, which began on January 10, 2025, and ended on February 24, 2025. The Board’s summary of the comments received are presented below:

Industry stakeholders expressed a range of concerns regarding the proposed fee increases. One commenter understands the proposed fee increases and finds them reasonable but indicates an additional reason for the decline in the SPCB’s receipt of WDO activity reporting fees (as noted on page 3 of the ISOR) is due to competition from real estate professionals who, in home sale transactions, recommend general home inspections, which are not regulated, rather than WDO inspections.

Some commenters disagree with the fee increases in general without stating any specific concerns or issues. Other commenters feel the fee increases are proportionally too high. Commenters also indicate fee increases by the state and continued regulations are hurting businesses, especially small businesses.

Commenters particularly take issue with the increase in WDO activity reporting fees. Many commenters argue that the \$1 increase per WDO report disproportionately impacts small businesses, as it applies to every inspection conducted, adding significant financial strain. Several commenters note that businesses are already burdened by rising costs related to inflation, fuel, labor (including wages, taxes, and benefits), insurance, and regulatory compliance. In addition, some businesses are still dealing with the after affects due to the COVID-19 pandemic and natural disasters. Commenters fear the increased WDO activity reporting fee will affect profitability and make it harder to remain competitive.

Some commenters support increases to examination and license renewal fees to a degree, particularly if the revenue will be used to improve SPCB operations. However, there is strong opposition to increasing WDO activity reporting fees, which primarily affects Branch 3 companies.

Some argue that targeting unlicensed activity and illegal WDO inspections would be a more effective way to generate revenue without penalizing or burdening compliant individuals and businesses. Commenter claims this would foster greater trust and collaboration between the SPCB and its regulated community. Commenter argues increasing licensing and renewal fees could deter compliance and create additional challenges for those professionals who follow the law and maintain industry standards.

Other concerns include the lack of transparency regarding the SPCB's financial situation and cost reductions, with commenters requesting more data on budget shortfalls, the necessity for certain expenditures, and the necessity of the proposed increases. One commenter also questioned the estimated costs related to updating and posting the revised application forms.

One commenter specifically pointed out that Branch 3 operators are disproportionately absorbing the fee increases. The commenter provided an example of discrepancies between fumigation for drywood termites, which incurs a SPCB fee, and fumigation for bed bugs, which does not. The commenter also suggested eliminating the activity fee system in favor of increasing fees at every category along with business licensure fees for renewal of principal registration, arguing this would be a more balanced approach. The commenter further questioned whether the \$1 increase in WDO activity reporting fees would eventually be reduced and expressed concerns that the industry would face continued fee increases in the future. The commenter also noted that some fees were not keeping up with inflation and would need to be increased to meet basic inflation standards.

Additionally, some argue that comparing California's fees to other states is irrelevant, as the SPCB has historically operated within its budget. One commenter claimed the comparison of California's fees to other states failed to consider how the fee structures in those states differed from California.

Overall, while there is some acknowledgment of the need for increased fees, most commenters urge the SPCB to reconsider the fee increases, especially the WDO activity reporting fee increase, and explore alternative revenue sources that do not place additional financial burdens on small businesses.

SPCB Responses to Comments:

At its March 12, 2025, meeting, after reviewing and considering the public comments regarding the proposed fee increases, the SPCB voted to reject the comments, declined to make any amendments to the proposed text, and directed staff to move forward with the regulatory action as proposed. Further, while the SPCB acknowledges the concerns expressed by industry members, the comments presented did not provide a viable alternative to lessen the impact on small businesses while also addressing the SPCB's financial reality. Below are the key responses to the comments received and reasons why the comments were rejected:

1. Financial Necessity of Fee Increases and Transparency

- As detailed on pages 2 and 3 of the ISOR, the SPCB operates as a special fund entity, funded primarily by WDO activity reporting, examination, licensing, and renewal fees, and disciplinary assessments. The SPCB is facing a structural budget deficit due to rising operational costs that include licensing and enforcement expenses and lower than projected revenues. The SPCB must increase fees to remain solvent. This fee increase proposal is based on thorough financial analysis and public transparency, including published budget data (see, items 2, 3, and 4 of the underlying data in the ISOR) and regulatory justifications detailed in the ISOR.

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- The assertion that the SPCB should "cut costs" rather than raise fees ignores the fact that state-mandated salary increases, rising legal and IT costs, and inflation pressures are outside the SPCB's control. Raising fees will generate a reliable and predictable revenue stream for the SPCB, helping to offset the increased operational costs it faces.
- Although the SPCB understands that higher fees are not ideal to individuals and businesses, particularly as the industry evolves and faces external challenges, the SPCB has generally been conservative in raising fees. As stated on page 1 of the ISOR, field representative and operator licensing fees have not increased since 1990, the applicator license fee has remained unchanged since its establishment in 2007, and examination fees for all three license types have remained static since 2015. WDO activity reporting fees were last increased in 2020. The decision to raise fees currently is driven by necessity. While the fee increases may appear significant in proportion, the actual dollar amounts are only incrementally higher, with increases ranging from \$1 to \$35.
- As stated on page 3 of the ISOR, any workload and costs would be absorbed within existing resources. The SPCB notes that the process of updating and posting revised application forms is more involved than suggested by the commenter, including updates to online systems. The bulk of the cost estimate was provided by the Office of Information Services (OIS) based on the anticipated workload that OIS would provide in connection with this proposed rulemaking. The SPCB notes that the actual cost may differ from the estimate.

2. Statutory Maximums, Future Fee Adjustments, and Recommendation to Abandon Activity Fee System

- The SPCB has no authority to increase fees beyond the statutory maximums set in law. Almost all of the examinations, licensure, and renewal fees in this proposal are already being increased to the maximum statutorily allowable amount.
- The SPCB has no authority to change the fee system currently in place, and the fees the SPCB can legally collect are set forth in statute within the Structural Pest Control Act (Chapter 14 (commencing with section 8500) of Division 3 of the BPC). Accordingly, at this time, the SPCB cannot eliminate the activity fee system in favor of increasing fees at every category along with business licensure fees for renewal of principal registration, as suggested by one commenter. However, the SPCB can consider a new fee structure, including the recommendations provided, for potential future statutory changes.
- The SPCB is working on a legislative effort to increase the statutory maximums for its fees. However, this process requires a law change and will take time. Accordingly, to address the SPCB's current financial situation, the SPCB must raise fees as indicated in this regulatory action to avoid insolvency.

3. WDO Activity Reporting Fee Concerns Are Not Justified

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- Many comments argue that the \$1 increase in WDO activity reporting fees (from \$4 to \$5) is too high, citing that it represents a 25% increase. However, the adjustment is necessary to ensure the SPCB's financial sustainability.
- As discussed on pages 3 and 8 of the ISOR, WDO activity reporting fees account for approximately 80% of the SPCB's revenue. In connection with this rulemaking, almost all of the examination, licensure, and renewal fees are already being increased to the maximum statutorily allowable amounts. Without also increasing WDO activity reporting fees, the SPCB would be unable to maintain operations at necessary levels.
- Comments noting Branch 3 operators are disproportionately absorbing the fee increases fail to adequately consider the nuances of the SPCB's current fee structure. Unlike the SPCB's individual license fees, businesses do not have to pay annual renewal fees to the SPCB. Further, individual license and renewal fees are assessed by the SPCB regardless of how much income an individual licensee may make. Businesses on the other hand, are only required to pay the WDO activity reporting fee when the WDO inspection is conducted – an inspection that, historically, has directly or indirectly resulted in revenue for businesses, as discussed in the next paragraphs.
- Some commenters suggest that businesses cannot pass this cost onto consumers, but this increase amounts to only \$1 per report—an amount that is minimal compared to overall business expenses. As one commenter indicated, the average inspection fee in Ventura County can range from \$0 to \$100. This means that the proposed increase in WDO activity reporting fee could represent as little as a 1% profit loss to the business owner for some inspections. The SPCB does not track what individual businesses charge, so it has no way of knowing how many businesses perform WDO inspections for free or without recouping the WDO activity reporting fee.

It is common knowledge that some companies – particularly in certain areas of Los Angeles and other parts of Southern California – do not charge WDO inspection fees and many businesses offer limited inspections at no cost. These freebie marketing-type strategies are employed in exchange for the opportunity to bid on corrective work, with the goal of generating significantly more revenue from the corrective work performed than the inspection fee itself. While some activities, such as supplemental inspections and notices of work completed, require a filing fee without an associated charge for the inspection or report, they often reflect greater revenue from the work performed.

Ultimately, the industry itself has set the standard for inspection and activity fees, including the decision to offer certain inspections at no cost. These business decisions are driven by the ability to generate revenue through the services and work performed rather than solely through inspection fees.

4. Enforcement Against Unlicensed Activity and Unlicensed WDO Inspections is Not a Revenue Solution

- Some comments propose that the SPCB focus on enforcement against unlicensed activity, including unlicensed WDO inspections, rather than increasing fees, especially WDO activity reporting fees that disproportionately affect small businesses. While enforcement is a priority, fines and penalties are not a reliable or sustainable source of revenue. Increasing enforcement may not effectively reduce the SPCB's budget deficit, and could even result in increased expenditures, as it is difficult to predict the extent to which enforcement activities would yield successful outcomes. For these reasons, the SPCB rejects this proposed alternative because though it might lessen the adverse economic impact on small businesses, there is no guarantee it would address the SPCB's budget deficit.
- The SPCB maintains, as stated on page 30 of the ISOR, that no reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.
- On the contrary, the increased fees will allow the SPCB to strengthen its enforcement efforts, improving its ability to identify and penalize unlicensed activities.

5. Comparisons to Other States Are Misleading

- Some comments argue that California should not compare its fees to other states. This overlooks the reality that the SPCB's costs of operation are higher than many other similarly situated states due to state-mandated requirements and increased regulatory oversight unique to California; yet the SPCB's fees remain comparatively lower.
- The SPCB referenced specific states with comparable scope of practice to California for illustrative purposes only. Even after the proposed increases, California's fees remain competitive with those in other states.

6. The Cost of Inaction is Greater

- Failure to adjust fees now will lead to financial insolvency, forcing the SPCB to cut essential services, delay processing times, and reduce enforcement capacity.

Delaying fee increases would only necessitate larger, more abrupt increases in the future.

Consideration of Alternatives: The SPCB has determined that no proposed or considered alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private

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persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The SPCB made this determination because none of the options available would be as effective in carrying out the purpose for which the action is proposed (see subparagraph No. 4 above).

Small Business Impact: The SPCB has determined that the proposed regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The SPCB made this determination because the fee increases are modest, necessary to maintain essential regulatory functions, and ensure the SPCB remains solvent. Most fees have remained unchanged for years or even decades. Additionally, businesses have flexibility to pass on minimal increases, such as the \$1 WDO activity reporting fee, without substantial financial burden.

As explained in subparagraph No. 4 above, the SPCB rejects the proposed alternative to seek enforcement against unlicensed activity rather than raising fees because although such an alternative might lessen the adverse economic impact on small businesses, there is no guarantee that such an alternative would generate revenue to address the Board's budget imbalance.

Incorporation by Reference

Application for Operator License: Form 43L-1 (Rev. 08/2024)

Application for Field Representative License: Form 43L-14 (Rev. 08/2024)

Application for Applicator License: Form 43L-21 (Rev. 08/2024)

All forms incorporated by reference in this rulemaking would be cumbersome, unduly expensive, and otherwise impractical to publish in the CCR. The forms are available from the Board upon request.