

**TITLE 16. STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: April 29, 2020

Subject Matter: Wood Destroying Organism Inspection Reporting Fee Increase

Section Affected: California Code of Regulations (CCR), Title 16, Section 1997

BACKGROUND AND INTRODUCTION

The Board submitted an Emergency Rulemaking File to the Office of Administrative Law (OAL) in August of 2019, which was approved on August 22, 2019. The Board is now submitting the adopted regulation, rulemaking file, and certificate of compliance in accordance with the requirements of Government Code section 11346.1, subdivision (e).

PROBLEM BEING ADDRESSED

Based on current budget projections the Structural Pest Control Board (Board) is facing the risk of insolvency and the serious risk to public safety that would result.

Boards and bureaus within the Department of Consumer Affairs (DCA) typically maintain a reserve fund balance of approximately six months to be able to respond to unanticipated revenue fluctuations and costs, such as decreases in licensing populations (and the associated revenue drop), litigation expenses, and increases in enforcement costs. (See BPC sections 3145 [Optometry Board maintains up to a six-month reserve]; 3775, subd. (d) [Respiratory Care Board maintains six-month reserve]; 7138.1 [Contractors State License Board maintains six-month reserve].)

The SPCB's expenditures increased more substantially starting in the 2017-2018 fiscal year. As reflected in the 2019 Governor's Budget fund condition statement, the SPCB's expenditures in the 2015-2016 and 2016-2017 fiscal years were greater than its revenues but to a lesser degree than 2017-18. It maintained a relatively-stable reserve balance of 5.3 months in the 2015-2016 fiscal year and 5.0 months in the 2016-2017 fiscal year. But in the 2017-2018 fiscal year, the SPCB's expenditures began to significantly outpace its revenues and the SPCB ended the last fiscal year with less than one month in reserve. The SPCB began its 2019-2020 fiscal year with a dangerously-low reserve balance of \$246,000 (see 2019 Governor's Budget fund condition statement). Under the current budget projections, without a fee increase, the SPCB is projected to have a negative reserve balance by the 2020-2021 fiscal year.

In April of 2018, the Board voted unanimously to raise its Wood Destroying Organism Inspection Reporting Fee (WDO) from \$2.50 per property address reported to the statutory maximum (at the

time) of \$3.00 per property address reported. This rulemaking file was approved by the Office of Administrative Law (OAL) on May 7, 2019 with an effective date of July 1, 2019.

While this increase is projected to bring revenue closer to the level of expenditure, it is ultimately insufficient, and the Board remains projected to exhaust its budget reserves by the 2020-2021 fiscal year. While this amendment was in the rulemaking process, the statutory maximum of the WDO increased from \$3.00 per property address reported to \$5.00 per property address reported, by Senate Bill (SB) 1481 (Hill), Chapter 572, Stats. 2018.

The Board is proposing to amend 16 CCR 1997 to raise the WDO inspection reporting fee from \$3.00 per property address reported to \$4.00 per property address reported. Increasing the WDO from \$3.00 per property address reported to \$4.00 per property address reported is projected to produce an annual revenue increase of approximately \$1,376,000. This action will provide an influx of cash and increase the Board's long-term revenue projections so that the Board can cover all expenditures and rebuild its reserve fund balance.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL

Amend 16 CCR section 1997

Currently, there are 1,544 companies registered with the SPCB with the proper license to perform WDO inspections. Over 2014-15, 2015-16, 2016-17, 2017-18, and 2018-19 these companies reported an annual average total of approximately 1,376,000 WDO inspections per year. This translates to an average of 891 annual WDO inspections per registered company.

Currently, 16 CCR 1997 establishes a fee of \$3.00 for every property address that is reported to the Board where a WDO inspection has been performed.

The following chart displays the historical number of WDO filings and WDO fee revenue as follows:

Fiscal Year	2014-15	2015-16	2016-17	2017-18	2018-19	Five-Year Average
WDO Filings	1,347,773	1,365,394	1,409,420	1,380,400	1,379,045	1,376,406
WDO Annual Fee Revenue	\$3,369,433	\$3,413,485	\$3,523,550	\$3,451,000	\$4,137,135	\$3,578,921

The specific purpose for amending 16 CCR 1997 is to raise revenue and stabilize the Board's fund condition by increasing the WDO inspection reporting fee from \$3.00 per property address reported to \$4.00 per property address reported. This is a one-dollar fee increase per inspection.

Business and Professions (B&P) Code section 8674(n) establishes a WDO activity fee not to exceed \$5.00 per property address. The proposed regulation implements B&P Code section 8674(n) by amending 16 CCR 1997 and raising the WDO inspection reporting fee to \$4.00. While

the Legislature did allow an increase of up to \$5.00 per property address, it was determined from review of the fund condition (attached as underlying data), that an increase to \$4.00 per property address would bring the Board's fund into solvency.

NECESSITY

In order to perform the duties and functions that are required by law, the Board must maintain a sustainable operating budget. The Budget projections show that by 2020-21 the Board will have a negative reserve balance.

To ensure that the Board remains solvent and maintains an adequate reserve balance, it is necessary to amend 16 CCR 1997 to raise the WDO inspection reporting fee from \$3.00 per property address reported to \$4.00 per property address reported.

Based upon a five-year average, approximately 1.376 million WDO inspections are filed per year, which will increase annual fee revenues by an estimated \$1,376,000 per year.

Fee Revenue Type	Current Fee	Current Annual Fee Revenue	Proposed Fee	Proposed Annual Fee Revenue	Increase Amount
WDO (approx. 1.376 million)	\$3.00	\$4,128,000	\$4.00	\$5,504,000	\$1,376,000

The Board anticipates that the fee increase will result in a reserve balance of approximately 6 months in 2021-22. The Board elected to address these budgetary concerns by raising the WDO inspection reporting fee due to the high volume of WDO inspections that are performed, as it was the most effective option to quickly increase revenue while simultaneously spreading the cost impact across a large population of representative businesses.

ANTICIPATED BENEFITS

The Board anticipates that the public will benefit as a result of the proposed regulation. Pursuant to B&P Code sections 8520(c) and 8520.1, consumer protection and protection of the public are, respectively, the Board's highest priority and primary function. In order to fulfill those obligations, it is necessary for the Board to maintain a sustainable operating budget. The proposed regulation will help ensure that the Board maintains an adequate reserve balance and can continue to meet its statutory obligations.

UNDERLYING DATA

1. Structural Pest Control Fund, Analysis of Fund Condition, (2019 Governor's Budget fund condition statement) 9-24-2019
2. Structural Pest Control Fund, Analysis of Fund Condition (With \$1.00 WDO Fee Increase), 9-24-2019
3. Statement of WDO Activities Filed
4. May 29, 2019 Board Minutes Approving WDO Fee Increase to \$4.

BUSINESS IMPACT

The Board 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 Board, however, has determined that the proposed regulation may have a minimal adverse economic impact on businesses that regularly perform WDO inspections.

Currently, there are 1,544 companies registered with the SPCB with the proper license to perform WDO inspections. Over 2014-15, 2015-16, 2016-17, 2017-18, and 2018-19 these companies reported an annual average total of approximately 1,376,000 WDO inspections per year. This translates to an average of 891 annual WDO inspections per registered company. Based on the Board's projections the average cost impact for a business that performs WDO inspections is expected to be \$891 a year. This is ultimately a minor cost for businesses who regularly perform WDO inspections because in comparison to the revenue generated by performing a WDO inspection, an increase of \$1.00 per inspection is very small.

MANDATE ON SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulation does not mandate the use of any specific technologies or equipment.

ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the state. The Board made this determination because the economic impact associated with the proposed regulation is expected to be minimal and therefore insufficient to have any impact on job creation or elimination.

The Board has determined that the proposed regulatory action will not affect the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because the economic impact associated with the proposed regulation is expected to be minimal and therefore insufficient to have any impact on the creation of new or the elimination of existing businesses.

The Board has determined that the proposed regulatory action will not affect the expansion of businesses currently doing business within the state. The Board made this determination because the economic impact associated with the proposed regulation is expected to be minimal and therefore insufficient to have any impact on the expansion of businesses currently operating in California.

The Board has determined that the proposed regulatory action will benefit the health and welfare of California residents, worker safety, and the state's environment because it will enable the Board to address the concerns about its fund condition and therefore, ensure that the Board can continue to fulfill its primary function of protecting the public.

CONSIDERATION OF ALTERNATIVES

The Board has determined 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 or businesses or equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.