



STRUCTURAL PEST CONTROL BOARD

Registrar: Mary Lynn Ferreira
(916) 263-2540

The Structural Pest Control Board (SPCB) is a seven-member board functioning within the Department of Consumer Affairs. SPCB's enabling statute is Business and Professions Code section 8500 *et seq.*; its regulations are codified in Division 19, Title 16 of the California Code of Regulations (CCR).

SPCB licenses structural pest control operators and their field representatives. Field representatives are allowed to work only for licensed operators and are limited to soliciting business for that operator. Each structural pest control firm is required to have at least one licensed operator, regardless of the number of branches the firm operates. A licensed field representative may also hold an operator's license.

Licenses are classified as: (1) Branch 1, Fumigation, the control of household and wood-destroying pests by fumigants (tenting); (2) Branch 2, General Pest, the control of general pests without fumigants; (3) Branch 3, Termite, the control of wood-destroying organisms with insecticides, but not with the use of fumigants, and including authority to perform structural repairs and corrections; and (4) Branch 4, Wood Roof Cleaning and Treatment, the application of wood preservatives to roofs by roof restorers. Effective July 1, 1993, all Branch 4 licensees must be licensed contractors. An operator may be licensed in all four branches, but will usually specialize in one branch and subcontract out to other firms.

SPCB also issues applicator certificates. These otherwise unlicensed individuals, employed by licensees, are required to take a written exam on pesticide equipment, formulation, application, and label directions if they apply pesticides. Such certificates are not transferable from one company to another.

SPCB is comprised of four public and three industry members. Industry members are required to be licensed pest control operators and to have practiced in the field at least five years preceding their appointment. Public members may not be licensed operators. All Board members are appointed for four-year terms. The Governor appoints the three industry representatives and two of the public members. The Senate Rules Committee and the Speaker of the Assembly each appoint one of the remaining two public members.

MAJOR PROJECTS

Rulemaking Update. The following is a status update on SPCB rulemaking proposals reported in detail in previous issues of the *Reporter*.

• **Fumigation Regulations.** Following a public hearing at its October 22 meeting, SPCB took the following actions on its proposal to amend sections 1973 and 1993, adopt sections 1974 and 1996(h), and repeal section 1994, Title 16 of the CCR. [13:4 CRLR 89-90]

-SPCB postponed action on section 1973 until its February 25 meeting; this proposal would require the Notice of Re-Entry form (which must be posted by SPCB licensees when a fumigated building is safe for re-entry) to be printed in black lettering on a white background.

-SPCB also postponed action on proposed section 1974 until its February meeting; this proposal would specify that warning signs shall be at least 11"x17" in size, and incorporate a sample warning sign as new Form 43M-15.

-Subject to minor modifications, SPCB adopted the proposed amendments to section 1993, which provide that inspection reports shall comply with the requirements of Business and Professions Code section 8516 and define the different types of inspection reports which must be submitted to the Board. The modifications to section 1993 must be published for an additional 15-day public comment period; thereafter, they await review and approval by the Department of Consumer Affairs (DCA) and the Office of Administrative Law (OAL).

-SPCB agreed to repeal section 1994, on the basis that its provisions are contained in the proposed amendments to section 1993; the proposed repeal of section 1994 awaits review and approval by DCA and OAL.

-SPCB withdrew proposed section 1996(h), which would specify that each recommendation of structural pest control work which requires the use of pesticides shall state the name of the pesticide to be used and the active ingredient(s). SPCB agreed to redraft the proposed language and notice the modified language for proposed adoption.

• **Manufacturer's Recommendation on Termiticide Applications.** SPCB's proposed amendment to section 1991, Title 16 of the CCR, which would have required all preconstruction applications of termiticide to be made at not less than the manufacturer's label specifications, was recently rejected by DCA; SPCB is expected to renounce this proposal in a future rulemaking package. [13:4 CRLR 90]

• **Reinspection Language.** DCA also rejected SPCB's proposed amendments to section 1996, Title 16 of the CCR, which would have required the inclusion of reinspection disclosure language on all inspection reports which contain corrective measures. Specifically, the proposed changes would have required that a reinspection be performed when requested by the person who ordered the original inspection, specified that the request for reinspection must be made within four months of the original inspection, and required that the reinspection be performed within ten working days of the request for a fee not more than the original fee. [13:4 CRLR 90] SPCB is expected to renounce this proposal in a future rulemaking package.

• **Continuing Education Requirements.** On December 20, OAL disapproved SPCB's proposed amendments to sections 1950, 1950.5, and 1953, Title 16 of the CCR, which would have decreased the number of continuing education hours required to renew a license, amended the number of hours required in specified areas of training, removed in-house training limitations, required an examination on Board-approved rules and regulations courses, and required course providers to submit a course roster to the Board for each course instructed. [13:4 CRLR 90; 13:2&3 CRLR 111] According to OAL, it disapproved the action because the text of section 1950 as submitted contained changes from that which was adopted by SPCB; also, OAL found that the rulemaking file failed to contain a written comment apparently received by SPCB during the public comment period. SPCB has 120 days from the date of disapproval in which to correct these deficiencies and resubmit the rulemaking file to OAL.

• **Fumigation Warning Signs.** DCA rejected SPCB's proposed adoption of new section 1970.6, Title 16 of the CCR, regarding fumigation warning signs. [13:4 CRLR 90; 13:2&3 CRLR 111] SPCB is expected to renounce this proposal in a future rulemaking file.

• **Other SPCB Rulemaking.** SPCB's proposed amendments to regulatory sections 1990 (definition of a "separated report" and required disclosure language regarding a separated report), 1991(a)(8)(C)(3) (removal of evidence of wood-destroying pests), and 1996 (format for the completion of an inspection report), and its adoption of new section 1990.5 (procedures for reporting the inspection of a common interest project), have been approved by DCA and await review and approval by OAL at this writing.

Board Considers New Legislative and Regulatory Proposals. At its October 22



meeting, SPCB agreed to pursue a number of legislative and regulatory changes in 1994, including the following:

- amend Business and Professions Code section 8505.5 to prohibit fire departments from charging fees in excess of \$5 for notification of fumigations;

- amend Business and Professions Code sections 8516(j) and 8652 to change the time period that specified documentation must be retained from two to three years;

- amend section 1919, Title 16 of the CCR, to delete a requirement that the public member of SPCB's Research Advisory Panel must be one of the SPCB public members;

- amend section 1971(a)(2), Title 16 of the CCR, to specify that each fumigation truck must be provided with proper testing equipment as required by the manufacturer's label instructions and all applicable laws and regulations;

- amend section 1973, Title 16 of the CCR, to require proper testing after aeration with proper testing equipment as required by the manufacturer's label instructions and all applicable laws and regulations;

- amend section 1993(c), Title 16 of the CCR, to require that limited inspection reports include recommendations for further inspection of the entire structure; and

- adopt a regulation to clarify that Branch 2 or Branch 3 licensees may identify carpenter ants and carpenter bees.

LEGISLATION

AB 1392 (Speier), as amended July 1, would—among other things—provide that SPCB's executive officer is to be appointed by the Governor, subject to Senate confirmation, and that the Board's executive officer and employees are under the control of the Director of the Department of Consumer Affairs. [S. B&P]

AB 1851 (Connolly). Section 8505.1 of the Business and Professions Code includes a list of lethal fumigants, including methyl bromide, and a list of simple asphyxiants. As amended May 17, this bill would require SPCB to publish that list of simple asphyxiants and make it available to the public. This bill would also remove methyl bromide from the list of lethal fumigants, and require SPCB to prohibit the use of methyl bromide as a fumigant for structural pest control purposes, commencing January 1, 1996. [A. W&M]

AB 520 (Knight), as introduced February 18, would repeal the Structural Pest Control Act and its provisions creating the Board. [A. CPGE&ED]

AB 1807 (Bronshvag), as amended May 3, would authorize SPCB to issue a

citation if, upon investigation, it has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services without being properly licensed, and to require the violator to cease the unlawful advertising. [A. Inactive File]

RECENT MEETINGS

At its October 22 meeting, SPCB unanimously approved the proposed issuance of photo identification licenses, which are expected to permit easier verification of applicants by SPCB and by the general public.

Also at its October meeting, SPCB adopted or revised various Board policies as follows: Policy No. G-2 requires Board members to receive prior approval from the Board president before attending meetings (other than Board meetings and Board committee meetings) at state expense; Policy No. G-3 now provides that Board members are ad hoc members of all Board committees; Policy No. G-5 now provides that minutes of SPCB meetings will be distributed to individuals on the mailing list within ten days after approval by the Board; Policy No. E-1, regarding the complaint process, now provides that the initial contact letter sent to a registered company will request that building permit final papers be provided to the Board for each repair performed when such permit is required; Policy No. E-3 now provides that at each Board meeting, the Board will be provided with a list of closed consumer complaints by number and disposition, and that a committee of two Board members will select and review cases; and Policy No. E-4 now provides that in cases of significant wrongdoing involving false advertising or unfair competition, the Board will consider taking appropriate action under the provisions of Business and Professions Code sections 17500 and 17200.

Also at the October meeting, the Board considered six proposed regulatory changes submitted by Dale Luger of National Building Inspectors, Inc.; of the six proposals, the Board rejected four, Luger withdrew one from consideration, and the Board agreed to appoint a committee to study the issues raised by one of the proposals concerning the inspection and treatment of wooden decks. At this writing, the committee—which is to include Luger—is expected to review the matter and present its recommendations to the Board at its February meeting.

Finally, the Board elected Wayne Grisham to serve as SPCB President and Carl Doucette to serve as Vice-President for 1994.

FUTURE MEETINGS

April 22 in Sacramento.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

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Pursuant to Business and Professions Code section 4800 *et seq.*, the Board of Examiners in Veterinary Medicine (BEVM) licenses all doctors of veterinary medicine (DVMs), veterinary hospitals, animal health facilities, and animal health technicians (AHTs). The Board evaluates applicants for veterinary licenses through three written examinations: the National Board Examination, the Clinical Competency Test, and the California State Board Examination.

The Board determines through its regulatory power the degree of discretion that veterinarians, AHTs, and unregistered assistants have in administering animal health care. BEVM's regulations are codified in Division 20, Title 16 of the California Code of Regulations (CCR). All veterinary medical, surgical, and dental facilities must be registered with the Board and must conform to minimum standards. These facilities may be inspected at any time, and their registration is subject to revocation or suspension if, following a proper hearing, a facility is deemed to have fallen short of these standards.

The Board is comprised of six members—four licensees and two public members. The Governor appoints all of the Board's DVM members; the Senate Rules Committee and the Assembly Speaker each appoint one public member. Board members serve four-year terms. The Board has eleven committees which focus on the following BEVM functions: continuing education, citations and fines, inspection program, legend drugs, minimum standards, examinations, administration, enforcement review, peer review, public relations, and legislation. The Board's Animal Health Technician Examining Committee (AHTEC) consists of the following political appointees: three licensed veterinarians, three AHTs, and two public members.

MAJOR PROJECTS

BEVM Considers Alternative AHT Requirements. At its November 18 meeting, BEVM discussed draft amendments to section 2068.5, Title 16 of the CCR,