



## REGULATORY AGENCY ACTION

**SB 958 (Rogers)**, as amended April 11, would amend Public Resources Code section 2774, which currently specifies that those conducting surface mine inspections must be state-registered geologists, state-registered civil engineers, state-licensed architects, or state-registered foresters. SB 958 would delete the requirement for state registration or licensure, and states that the proposed inspections would be conducted by a qualified professional with experience in land reclamation. This two-year bill is pending in the Senate Committee on Natural Resources and Wildlife.

**Future Legislation.** BRGG's Professional Practices Committee recently completed draft legislation which would amend its enabling act to allow the Board to certify hydrogeologists as a specialty. The certification of hydrogeologists would be similar to the Board's current Certified Engineering Geologist (CEG) specialty, and would require an applicant to first meet all of the requirements for geologist registration before being eligible to take the specialty examination. The legislation is proposed as a replacement for AB 892 (*see above*).

The difference between the Board's proposal and AB 892 (and the source of ongoing discussions between the Board and Assemblymember Sally Tanner) is that AB 892, unlike the Board's proposal, would not require hydrologists to meet the Board's current requirements for geologists, but would instead provide for their registration by establishing separate requirements including the administration of an entirely different examination. Although BRGG would be required to develop a new specialty examination even under its own proposal, the Board believes that the requirements should emphasize skills in geology (below surface), rather than traditional hydrology (above surface), in order to remain within its field of expertise; that distinction illustrates the difference between a hydrogeologist and hydrologist. Another interested party is the Board of Registration for Professional Engineers and Land Surveyors, which appears to be concerned with the scope of both proposals—especially AB 892.

At this writing, BRGG does not know which legislator might introduce its proposal, but is hopeful that Assemblymember Tanner will simply adopt BRGG's proposal in lieu of AB 892. The Board was scheduled to vote on the legislative proposal at its January 13 meeting.

### RECENT MEETINGS:

At its October 7 meeting, the Board discussed its recent efforts to encourage

the Wilson administration to fill its two public member vacancies; the administration has reportedly assured the Board that the appointments are forthcoming.

The Board also agreed to send a letter to its equivalent board in Maine in an attempt to reestablish the examination reciprocity they once shared. Examination reciprocity enables the boards to become informed on national developments in the profession by exchanging examinations and examination techniques. BRGG maintains reciprocity with Georgia, Arizona, and Idaho.

### FUTURE MEETINGS:

To be announced.

### BOARD OF GUIDE DOGS FOR THE BLIND

*Executive Officer: Manuel Urena (916) 445-9040*

The Board of Guide Dogs for the Blind has three primary functions. The Board protects the blind guide dog user by licensing instructors and schools to ensure that they possess certain minimum qualifications. The Board also enforces standards of performance and conduct of these licensees as established by law. Finally, the Board polices unlicensed practice.

The Board, authorized by Business and Professions Code section 7200 *et seq.*, consists of seven members, two of whom must be dog users. In carrying out its primary responsibilities, the Board is empowered to adopt and enforce regulations, which are codified in Division 22, Title 16 of the California Code of Regulations (CCR).

The Board currently licenses three guide dog schools and 48 trainers.

### LEGISLATION:

**AB 567 (Hunter)**, as amended April 18, would abolish the Board of Guide Dogs for the Blind and require the trainers of guide, signal, or service dogs to register with the Department of Consumer Affairs (DCA); these registered trainers would be permitted to authorize other personnel to train the dogs. DCA would be required to establish and maintain a registry of these persons and issue registration certificates. This two-year bill is still pending in the Assembly Human Services Committee.

**SB 756 (Marks)** would change the composition of the Board by providing that one member shall be the Director of the Department of Rehabilitation or his/her representative, one shall be a veterinarian, one shall be a member of the general public, and the remaining

members shall be blind persons who use guide dogs. This two-year bill is still pending in the Senate Business and Professions Committee.

### RECENT MEETINGS:

At its October 18 meeting in Los Angeles, the Board decided that the annual production costs for each guide dog school should be calculated based on all funds expended for the year, regardless of whether they were expended for original training, retraining, or home visits of the person/dog unit. The Board is required to report the guide dog schools' production costs to the legislature each year. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 77 for background information.)

Also at the October meeting, the Board passed a motion to study the issue of ownership of the guide dogs. Currently, under Business and Professions Code section 7215.5, guide dog schools usually maintain ownership of a trained dog even after placement with a blind person in order to conduct follow-up interviews and intervene in cases of abuse. As an alternative, the Board may pursue legislation to enable it to act as the decisionmaker in disputes over rightful ownership. The Board's October action is encouraging; although guide dog ownership issues have been presented to the Board in the past, it has disclaimed jurisdiction over the issue. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 52 and Vol 7, No. 1 (Winter 1987) p. 45 for background information.)

At the October meeting, the Board elected its 1992 officers: Kay Cook was elected president, Mary Anne Thomas was elected vice-president, and Manuel Urena remains secretary.

### FUTURE MEETINGS:

To be announced.

### BUREAU OF HOME FURNISHINGS AND THERMAL INSULATION

*Chief: Gordon Damant (916) 920-6951*

The Bureau of Home Furnishings and Thermal Insulation (BHFTI) is charged with regulating the home furnishings and insulation industries in California. As a division of the state Department of Consumer Affairs (DCA), the Bureau's mandate is to ensure that these industries provide safe, properly labeled products which comply with state standards. Additionally, the Bureau is to protect consumers from fraudulent, misleading, and deceptive



trade practices by members of the home furnishings, insulation, and dry cleaning industries. The Bureau is established in Business and Professions Code section 19000 *et seq.*

The Bureau establishes rules regarding furniture and bedding labeling and sanitation. To enforce its regulations, which are codified in Division 3, Title 4 of the California Code of Regulations (CCR), the Bureau has access to premises, equipment, materials, and articles of furniture. The Bureau may issue notices of violation, withhold products from sale, and refer cases to the Attorney General or local district attorney's offices for possible civil penalties. The Bureau may also revoke or suspend a licensee's registration for violation of its rules.

The Bureau is also charged with the registration of dry cleaning plants throughout the state. The registration process includes submission of information regarding the plant's onsite storage, treatment, and disposal of toxic wastes. The Bureau, however, has no enforcement authority regarding this function.

The Bureau is assisted by a thirteen-member Advisory Board consisting of seven public members and six industry representatives.

## MAJOR PROJECTS:

**OAL Approves Furniture Flammability Standards.** On November 26, the Office of Administrative Law (OAL) approved BHFTI's proposed regulatory changes to sections 1374 and 1374.3, Title 4 of the CCR. The amended sections, known as Technical Bulletin No. 133, establish higher flammability standards for furniture in public occupancy buildings such as jails, hospitals, nursing homes, day care centers, and public auditoriums. The Bureau has prepared a question-and-answer booklet addressing issues raised by the new regulations. Additionally, the Bureau is in the process of scheduling statewide seminars to instruct members of the industry in methods of compliance with Technical Bulletin No. 133, which becomes effective on March 1. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 80; Vol. 11, No. 3 (Summer 1991) p. 80; and Vol. 11, No. 2 (Spring 1991) p. 78 for background information.)

**Bureau to Draft Citation and Fine Regulations.** Business and Professions Code sections 125.9 and 125.95 authorize BHFTI to establish a system of citation and fines. According to the Bureau, regulations establishing citation and fine procedures would provide BHFTI with a strong enforcement tool

to ensure compliance with Bureau standards and rules. In addition, the fines would provide an additional source of revenue for the Bureau. BHFTI plans to draft regulations which will prescribe the format for the citation, the specific violations and range of fines for those violations, and factors to be considered in determining the appropriate fines. The regulations will include a section authorizing the Bureau to refuse to renew a license if a licensee has outstanding fines. Finally, the regulations will identify procedures for failure to comply and the appeals process. The regulations would limit fines to \$2,500 per inspection, and revenue from the fines would be placed in the Bureau's special fund. BHFTI has requested assistance from DCA to establish the new citation and fine system.

**Bureau Proposes Fee Increase Legislation.** In an effort to generate additional revenue, BHFTI has drafted proposed legislative amendments which will be incorporated into DCA's 1992 omnibus bill. (See CRLR Vol. 11, No. 4 (Fall 1991) pp. 80-81; Vol. 11, No. 3 (Summer 1991) p. 80; and Vol. 11, No. 2 (Spring 1991) p. 78 for background information.) The proposed package would amend Business and Professions Code section 19170 by increasing the maximum amounts that BHFTI may charge for license fees. Currently, the Bureau is charging the maximum license fees allowed by law; the proposed amendments would double the existing fee ceilings. The Bureau has not yet decided whether it will pursue regulatory amendments to raise its fees to the new maximum level if they are approved.

**Dry Cleaning Program to Relocate?** In response to Bureau pressure to relocate its Dry Cleaning Program, DCA has recommended that the Program be moved to another agency. Currently, the Dry Cleaning Program is virtually inactive, requiring only a one-time licensing fee. DCA has recommended that another agency, one which could regulate the toxic chemicals used in dry cleaning, take over the program. If this course of action is pursued, the Dry Cleaning Program may be removed from the Bureau's auspices by January 1993. BHFTI inherited the Dry Cleaning Program when the legislature abolished the Board of Dry Cleaning and Fabric Care in 1987. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 35 and Vol. 2, No. 4 (Fall 1982) p. 3 for background information.)

**False and Misleading Advertising Booklets Completed.** In response to a perceived industry need, the Bureau has prepared two booklets which provide

guidance to consumers and licensees concerning common practices of false and misleading advertising. *Know What They Mean*, targeted at consumers, and *Mean What You Say*, aimed at Bureau licensees, were prepared by BHFTI in conjunction with legal assistance from DCA. The Bureau will distribute the booklets via phone or mail-in requests, during inspection visits, and through various consumer outreach activities.

**Full-Scale Fire Test Bedding Project.** Bureau Chief Gordon Damant has proposed a flammability test procedure which is designed to test mattresses and other bedding planned for use in public occupancy buildings. The test is not brand-specific, but rather is aimed at measuring the flammability of specific types of mattress construction. The Bureau is considering incorporation of the flammability test procedure into a new Technical Bulletin. This matter is still under consideration; no action has been taken at this writing.

**DCA/BHFTI Halloween Costumes Project.** On October 24, Chief Damant, along with state Fire Marshal James McMullen and DCA Director Jim Conran, held a press conference to stress the issue of Halloween costume safety and to alert the public to misleading labeling. Approximately 75% of the examined costumes advertised that they were "fire retardant." However, because California has no standards for children's costumes, they need only comply with the Federal Flammable Fabrics Act. According to McMullen, the standards under the Act are so lax that "anything less flammable than paper is allowed." The participants reminded consumers that children should be told to cover their faces, stop, drop, and roll should their costume catch on fire, and that pumpkins should never be lighted with candles.

**BCPs Approved.** The Department of Finance approved two BHFTI budget change proposals (BCPs) which will affect Bureau staffing in fiscal year 1992-93. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 81 for background information.) The first BCP converts BHFTI's existing limited-term Staff Services Analyst position into a permanent position; the other BCP creates 1.5 clerical positions beginning July 1, 1992. These clerical positions will provide support to the full-scale flammability research and analytical/data processing units, which currently have no direct clerical support. The second BCP also creates 1.5 two-year clerical positions, which the Bureau anticipates using primarily to pursue unlicensed activity. The Bureau will maintain workload statis-



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tics on the limited-term positions and request that they become permanent in the 1994-95 budget if the studies show the workload to be permanent and ongoing. The BCPs have been forwarded to the Governor's office for inclusion in the Governor's budget which was presented to the legislature in January.

**BHFTI Creates Enforcement Coordinator Position.** The Bureau recently established the post of Enforcement Coordinator; this position will be filled by Dennis Weber, who currently serves as Staff Services Analyst and will maintain his present duties as well. The Coordinator will assume direct responsibility for analyzing and developing procedures to address enforcement paperwork backlogs. This organizational change is aimed at streamlining the handling of inspection-generated paperwork, so that the Bureau may increase revenues and improve follow-up of enforcement in the field. All inspectors will remain under the direct supervision of the Deputy Chief.

### LEGISLATION:

**AB 1749 (Johnson)** would revise to an unspecified amount the penalty fee for failure to timely renew a BHFTI license prior to its expiration. This two-year bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

### RECENT MEETINGS:

At its December 11 meeting, the Advisory Board elected Nurhan Donikian as its 1992 Chair and Tom Wilterink as Vice Chair.

### FUTURE MEETINGS:

June 9 in San Diego.

### BOARD OF LANDSCAPE ARCHITECTS

*Executive Officer: Jeanne Brode*  
(916) 445-4954

The Board of Landscape Architects (BLA) licenses those who design landscapes and supervise implementation of design plans. To qualify for a license, an applicant must successfully pass the written exam of the national Council of Landscape Architectural Registration Boards (CLARB). In addition, an applicant must have the equivalent of six years of landscape architectural experience. This may be a combination of education from a school with a Board-approved program in landscape architecture and field experience.

The Board investigates verified complaints against any landscape architect and prosecutes violations of the Practice Act. The Board also governs the examination of applicants for certificates to practice landscape architecture and establishes criteria for approving schools of landscape architecture.

Authorized in Business and Professions Code section 5615 *et seq.*, BLA consists of seven members. One of the members must be a resident of and practice landscape architecture in southern California, and one member must be a resident of and practice landscape architecture in northern California. Three members of the Board must be licensed to practice landscape architecture in the state of California. The other four members are public members and must not be licentiates of the Board. Currently, the Board has only six members; the southern California landscape architect seat is vacant. Board members are appointed to four-year terms. BLA's regulations are codified in Division 26, Title 16 of the California Code of Regulations (CCR).

### MAJOR PROJECTS:

**Low Pass Rate on 1991 Exam Reignites CLARB Membership Controversy.** At BLA's October 18 meeting, Executive Officer Jeanne Brode reported that the 1991 pass rate for California takers of CLARB's Uniform National Examination (UNE), recently renamed the Landscape Architects Registration Examination (LARE), was 9%. Although some Board members noted that pass rates in other states were as low as 0% and that the national pass rate was 6%, the Board expressed concern regarding this low pass rate and requested that Dr. Norman Hertz from the Department of Consumer Affairs' (DCA) Central Testing Unit (CTU) review and evaluate CLARB's scoring procedure and item analyses for the examination and report his findings at BLA's December meeting.

The low pass rate has reignited the controversy over whether BLA should remain with CLARB and use its LARE, or break away and contract with an exam vendor to write a new test for use in California. During the past few years, BLA's dissatisfaction with CLARB's test led it to demand that CLARB perform an occupational analysis of the practice of landscape architecture and overhaul its 1992 test to comport with the results of the analysis. To keep CLARB honest, BLA hired Psychological Services, Inc. (PSI), an independent consultant, to perform a task analysis specific to California licensees. During

the summer of 1991, CLARB promised to revamp its exam by June 1992 and to undertake future occupational analyses on a regular basis to keep the exam current. Based on CLARB's promises, a statutorily-required analysis of the costs of developing a new California exam, and PSI's survey indicating that the issue of license reciprocity is very important to California licensees, BLA decided to stay with CLARB for at least one more year at its August meeting—a decision which may now be reconsidered. (See CRLR Vol. 11, No. 4 (Fall 1991) pp. 82-83; Vol. 11, No. 2 (Spring 1991) p. 79; and Vol. 11, No. 1 (Winter 1991) p. 66 for extensive background information.)

At BLA's December 6 meeting, DCA Director Jim Conran addressed the Board, expressing serious concern regarding the low pass rate. He observed that an exam which fails 91% of the candidates raises the question whether the exam is being used to restrict entry into the profession by testing for non-job-related knowledge. Conran informed the Board members that several legislators are interested in sunseting BLA, but that he has persuaded them to give the Board a chance to make rectifying changes. Conran also directed the Board to provide him with a report on the 1991 exam pursuant to his authority under section 127 of the Business and Professions Code.

Also at the Board's December meeting, CTU's Dr. Norman Hertz reported back to the Board, stating that his review of the 1991 exam materials provided by CLARB indicated that the procedures used by CLARB to establish the passing score were unacceptable, and that CLARB had failed to provide the raw statistical data necessary to enable CTU to properly adjust the passing score. In addition, Dr. Hertz opined that many questions on the objective portions of the exam do not meet California's requirements for job-relatedness. Dr. Hertz suggested that BLA conduct a passing score workshop in which eight to ten licensed landscape architects would review the examination. If questions on the examination do not relate to the practice of landscape architecture, they should be deleted and the exam score reevaluated. Dr. Hertz offered CTU's assistance in conducting a passing score workshop, performing statistical analyses, and recommending a passing score that is legally defensible. Although modification of the exam or the passing score may result in reciprocity problems for 1991 California examinees, the Board agreed to have the 1991 exam reviewed