



REGULATORY AGENCY ACTION

legislature reconvenes in January: *SB 1186 (Stirling)*, which would provide that, notwithstanding any other provisions of law, an appellate court may grant an extension of time for the preparation of a reporter's transcript in a civil appeal to that court upon a showing of good cause; *AB 1438 (Burton)*, which, as amended July 12, would require the official reporter of felony cases, unless otherwise directed by the court, to certify a daily transcript of the proceedings if the court estimates that the case will involve twenty court days or more; *AB 1439 (Burton)*, which would require all criminal proceedings in open court in superior, municipal, or justice court involving a defendant charged with a felony to be conducted on the record with a stenographic reporter in attendance; and *AB 459 (Frizzelle)*, which would allow a BCSR licensee whose license has expired to renew that license at any time, without regard to length of delinquency and without requirement of reexamination, so long as continuing education requirements have been fulfilled and the appropriate fees have been paid.

RECENT MEETINGS:

The Board elected new officers at its June 24 meeting. Ron Clifton now serves as Chair; Linda Wing is Vice-Chair.

At its August 26 meeting, the Board discussed a formal request that examinees be notified as to whether they passed the shorthand reporter exam the day after the exam. In the past, examinees have been notified of their status one week after the exam; the Board voted to continue this practice, as one week is not an excessive amount of time.

The Board also decided to hire additional exam graders and will be screening candidates in the upcoming months.

FUTURE MEETINGS:

December 16 in Berkeley.

STRUCTURAL PEST CONTROL BOARD

Registrar: Mary Lynn Ferreira (916) 924-2291

The Structural Pest Control Board (SPCB) is a seven-member board functioning within the Department of Consumer Affairs. The SPCB is comprised of four public and three industry representatives.

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.

Licensees 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; or (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. An operator may be licensed in all three 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:

Proposed Regulatory Changes. On August 4, SPCB held a public hearing regarding several proposed amendments to its regulations, which appear in Chapter 19, Title 16 of the California Code of Regulations (CCR). Two amendments to section 1991 were proposed: an amendment to section 1991(a)(8) and the addition of new section 1991(a)(13). Amended section 1991(a)(8) would clarify the conditions under which a licensee should use local treatment instead of fumigation when treating structural infestations. New section 1991(a)(13) would establish procedures by which licensees may correct infestation problems encountered in wood decks, patios, fences, and similar structures.

On the day of the hearing, the Board

received an extensive written comment from Interested California Exterminators (ICE) regarding the proposed amendments to section 1991(a)(8). ICE is an unincorporated association consisting of individuals involved in the structural pest control industry in California. ICE also commented on the use of liquid nitrogen as a local treatment, a procedure known as the "Blizzard system" (see CRLR Vol. 9, No. 2 (Spring 1989) p. 76 for details). The Board decided to postpone discussion on both issues until sometime after November 20; this would give the Board enough time to review the documents submitted by ICE and would also allow industries promoting the "Blizzard system" sufficient time to respond to supplemental questions submitted by the Board on August 25.

Several other amendments to section 1991 previously adopted by the Board have not yet been submitted to the Office of Administrative Law (OAL) for approval. (See CRLR Vol. 9, No. 2 (Spring 1989) pp. 75-76 and Vol. 9, No. 1 (Winter 1989) pp. 64-65 for background information.)

Also at the August 4 hearing, the Board adopted a proposed amendment to section 1970.4(a) (*Pesticide Disclosure Requirement*) of Chapter 19, Title 16 of the CCR. (See CRLR Vol. 9, No. 2 (Spring 1989) pp. 75-76 for details.) The adopted language requires the name of the pest to be controlled, the pesticides or fumigants to be used, the active ingredients, and a health cautionary statement be included on the Occupant's Fumigation Notice.

The Board also approved proposed new section 1970.5 (*Commencing Aeration*), Chapter 19, Title 16 of the CCR. Business and Professions Code section 8505.3 requires a licensee to be present to conduct direct and personal supervision during the entire time fumigants are being released, the time ventilation is commenced, and at the time a property is released for occupancy. The Board had earlier determined that licensees are not clear on the meaning of the term "the time ventilation is commenced", and proposed section 1970.5 to clarify this term. Section 1970.5 defines this term as "the period of time commencing when the seal [of the structure] is broken and ending when all seals/tarps are removed."

Finally, the Board approved new section 1990(c), which specifies when a wood patio, deck, or similar structure should be inspected. SPCB adopted the following language: "If a wood deck, wood patio or other similar structure touches or connects with the structure



being inspected, it must also be inspected and reported or stated as not inspected in a 'limited report.' If a deck, patio or other structure does not touch, attach to or connect with the structure, it may be excluded from the scope of the inspection. The attachment, touching or connection acts as a triggering device for requiring inspections. Separation from the main structure by stucco, metal flashing or other common barriers does not remove it from being considered part of the structure with regard to inspection."

At this writing, the Board is preparing the rulemaking files on sections 1970.4(a), 1970.5, and 1990(c) for submission to OAL.

Regulatory Changes Disapproved. On July 13, OAL disapproved the Board's regulatory package adopted on June 13. At that time, SPCB adopted section 1936.2, Chapter 19, Title 16 of the CCR, which established the Board's processing times for license applications for field representatives and operators and company registration certificates. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 65 for details.) OAL rejected this regulatory change because it failed to comply with the clarity and necessity standards of Government Code section 11349.1. The Board plans to modify the proposed regulation and resubmit it to the OAL.

LEGISLATION:

The following is a status update on bills described in detail in CRLR Vol. 9, No. 3 (Summer 1989) at page 72:

AB 908 (Killea), as amended August 22, requires passage of a written examination every three years as a condition of license renewal for structural pest control operators. AB 908 was signed by the Governor on September 20 (Chapter 641, Statutes of 1989).

AB 1682 (Sher), as amended September 13, authorizes licensed contractors to apply wood preservatives to certain structures after making a specified disclosure to the customer, and creates a new branch of pest control practice designated as Branch 4 (Roof Restoration). This bill was signed by the Governor on October 2 (Chapter 1401, Statutes of 1989).

AB 2342 (Kelley), among other things, prohibits a registered structural pest control company from commencing work on a contract or signing, issuing, or delivering documents expressing an opinion or statement relating to the control of pests or organisms until an inspection has been made. This bill was signed by the Governor on September 20 (Chapter 577, Statutes of 1989).

AB 459 (Frizzelle) would enable Board licensees who have allowed their licenses to expire to renew those licenses at any time, regardless of length of delinquency and without reexamination requirement, so long as continuing education requirements are fulfilled and the appropriate fees are paid. AB 459 is a two-year bill pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

RECENT MEETINGS:

At its August 4 meeting, the Board discussed proposed guidelines related to the Board's acceptance of complaints filed against licensed employees by their own employers. The Board decided that only the most serious company-generated complaints should be accepted for investigation, and that the final decision regarding the acceptance of a complaint filed by a company against its licensed employee would rest with the Registrar of the Board. In such cases, the employee's company is always advised that it is ultimately responsible for rectifying the problem with the consumer. Proceeding in this manner would avoid SPCB involvement in a company's punitive action against its employee, and would allow the Board to take affirmative action against an employee/licensee where necessary.

At the same meeting, the Board heard reports from both its Technical Advisory Committee (TAC) and Continuing Education Committee (CEC). TAC presented guidelines to assist the Board in implementing AB 4274 (Bane), enacted in 1988. This bill requires the Board to revise the language of the standard structural pest control inspection report forms. The bill also requires that language describing "active ingredients and infections" and "conditions likely to lead to infestations and infections" be presented separately on inspection reports. The Board voted to adopt the guidelines proposed by the TAC. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 72 and Vol. 9, No. 1 (Winter 1989) p. 65 for background information on AB 4274.)

CEC presented its proposed page one of the revised termite inspection report form. The proposal was approved and scheduled for discussion at a public hearing on October 13 in Santa Cruz. CEC has been working on changes in the entire format of the inspection report; these changes were also scheduled for presentation at the October 13 meeting. One of the purposes in changing the format of the termite inspection report is to make it easier for consumers to

compare reports made on the same property prepared by different companies.

CEC also presented its report on continuing education requirements for licensees, operators, and field representatives. The Board considered and approved eight specific recommendations of the Committee. One recommendation changes the CE requirement formula for all licensees; another establishes two new categories of CE courses (business courses and courses in marketing, sales training, public relations, etc.) which would provide hourly credits. These changes must be adopted pursuant to the Administrative Procedure Act before they are enforceable; the Board has tentatively scheduled a public hearing on the proposals to coincide with its February meeting.

Finally, the Board discussed language relating to the issue of secondary locks, which are required on all structures being treated for infestation such that no person other than the licensed operator may enter the premises until treatment is finished. A representative from the California Department of Food and Agriculture presented language regarding the types of secondary locks which could be used on doorways in a structure. The Board voted to adopt this language; it will become effective in three months.

FUTURE MEETINGS:

February 10 in San Francisco.

May 4 in Orange County.

TAX PREPARER PROGRAM

Administrator: Don Procida
(916) 324-4977

Enacted in 1973, abolished in 1982, and reenacted by SB 1453 (Presley) effective January 31, 1983, the Tax Preparer Program registers commercial tax preparers and tax interviewers in California.

Registrants must be at least eighteen years old, have a high school diploma or pass an equivalency exam, have completed sixty hours of instruction in basic personal income tax law, theory and practice within the previous eighteen months or have at least two years' experience equivalent to that instruction. Twenty hours of continuing education are required each year.

Prior to registration, tax preparers must deposit a bond or cash in the amount of \$2,000 with the Department of Consumer Affairs.

Members of the State Bar of Califor-