



Upset by what many of the schools believe to be a name and address "sale", the schools propose as an alternative that a CCRA liaison position be created at each school to distribute CCRA information to the student body. The Board stated that it would study CCRA's request and various alternatives, but noted that before it begins the expansive process of regulation changes, it wants to see greater cooperation and communication between CCRA and court reporting schools.

FUTURE MEETINGS:

To be announced.

STRUCTURAL PEST CONTROL BOARD

Registrar: Mary Lynn Ferreira
(916) 924-2291.

The Structural Pest Control Board (SPCB) licenses structural pest control operators and field representatives. The latter can function only under a licensed operator and secure pest control work for the operator. Each structural pest control firm is required to have one licensed operator, regardless of the number of branches the firm operates. A licensed field representative can 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 can be licensed in all three branches, but more often will limit the variety of his or her expertise for purposes of efficiency 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 representatives.

MAJOR PROJECTS:

Regulatory Changes. Proposed changes to several of the Board's continuing education regulations, contained in Title 16 of the California Code of

Regulations, are being reviewed by the Department of Consumer Affairs (DCA) at this writing.

Revisions to sections 1950 (course completion prerequisite for licensure renewal), 1950.5 (activities constituting continuing education), and 1953 (instruction in use and care of specific products) were to be forwarded to the Office of Administrative Law (OAL) for review upon approval by the DCA Director. (For a more detailed description of these regulatory changes, see CRLR Vol. 7, No. 4 (Fall 1987) p. 68.)

The SPCB has also proposed the amendment of section 1948, which establishes its fee schedule for, among other things, licenses, renewals, report filings, examinations, and registrations. Because the Board has unencumbered reserves in an amount which equals the operating budget for the next three fiscal years—far exceeding the amount allowed by law—the Board must reduce all fees to zero for a period of one to three years, depending on the fee. These regulatory changes are also currently awaiting DCA approval.

Applicator Exam Revision. The SPCB is in the process of revising the contents of its applicator exam, as well as changing the way the exam is administered. In the past, pest control operators purchased the exam from the Board and administered it to those wishing to be certified as applicators. The Board now hopes to contract with county agricultural commissioners for exam administration, thus ensuring greater exam security while continuing to accommodate the demand for exam administration on an as-needed basis.

The Board is also drafting new technical questions, affecting Branch II and Branch III applicants only. Registrar Mary Lynn Ferreira anticipates that all changes involving exam contents and administration will be implemented by January 1, 1989.

Pesticide Enforcement Program. At its May 14 meeting in Montecito, the SPCB discussed a recent meeting at which representatives from the Board, county agricultural commissioners, and the Department of Food and Agriculture (DFA) addressed issues concerning the Pesticide Enforcement Program (PEP). As a result of staffing needs identified during that meeting, the SPCB and DFA will each try to fund an additional PEP staff position, with individuals hired into both positions serving as program coordinators. The Board is presently working on a budget change proposal which would fund its new PEP position

for the 1989-90 fiscal year. (For background information, see CRLR Vol. 8, No. 1 (Winter 1988) p. 73; Vol. 7, No. 2 (Spring 1987) p. 70; Vol. 6, No. 4 (Fall 1986) p. 54; Vol. 6, No. 3 (Summer 1986) p. 44; Vol. 6, No. 1 (Winter 1986) p. 45; Vol. 5, No. 4 (Fall 1985) p. 44; and Vol. 5, No. 3 (Summer 1985) p. 62.)

LEGISLATION:

AB 4274 (Bane) passed the Assembly on May 16. As amended on June 9, the measure would alter the requirements imposed on registered structural pest control companies concerning inspection reports. Among other things, AB 4274 would require that, upon the request of the person or entity ordering the report, each recommendation for corrective measures must separately state the infestation or infection which is evident and the conditions that are present which are deemed likely to lead to infestation or infection. The bill would also require, under specified circumstances, that an individual bid or estimate of repairs be given for each corrective measure recommended. AB 4274 is currently pending in the Senate Business and Professions Committee.

SB 2610 (Montoya), as amended May 19, also concerns structural pest control reporting requirements. It would require a registered company, under specified circumstances, to provide a written statement, on a form provided by the Board, to any person requesting an inspection for wood-destroying pests or organisms. The statement would explain in detail that conditions usually deemed likely to lead to infestation or infection are defects in the structure which may actually contain infestation or infection at the time of inspection and that such conditions should be corrected before there is additional damage to the structure.

The form would also specify that the registered company shall not be liable for uncorrected conditions reported therein. SB 2610 passed the Senate on June 16 and has not been assigned to an Assembly policy committee at this writing.

The status of several bills reported in CRLR Vol. 8, No. 2 (Spring 1988) at page 78 is as follows: *AB 1596 (Cortese)* was placed in the inactive file on April 28, at the request of its author. *AB 3059 (Areias)* was referred to a new policy committee on May 2. It is pending in the Assembly Committee on Housing and Community Development at this writing.



LITIGATION:

In *Americana Termite Co. Inc. v. Structural Pest Control Board*, No. B020747 (February 4, 1988), the California Court of Appeal (Second District) upheld the Board's Active Enforcement Program (AEP), which resulted in the suspension of four operators' licenses.

In 1982, the Board changed AEP's focus from fraud detection to administrative action against negligent and incompetent inspectors and termite companies. After SPCB's deputy registrar identified companies with the highest number of complaints within a geographic region, a Board investigator solicited the cooperation of area residents. Investigators inspected the residents' homes, after which the residents contacted companies on the SPCB's high-complaint list, requesting inspections. Following completion of these inspections, the companies filed reports with the Board.

After comparing the termite company reports with the investigators' reports, the SPCB suspended the licenses of four operators. The four petitioned the suspension to the trial court, which upheld the administrative actions.

The court of appeal affirmed, holding that the AEP did not deprive licensees of their statutory rights under the Structural Pest Control Act, because that Act allows the Board to impose discipline upon its own motion—not only in cases initiated through a consumer complaint. The court further held that AEP did not violate the licensees' right to equal protection because the Board's method (selecting the companies about which the most complaints had been received) was rationally related to a legitimate state interest in protecting the public. Finally, the court ruled that AEP was not a "regulation" and therefore did not have to meet the rulemaking requirements of the Administrative Procedure Act.

FUTURE MEETINGS:

To be announced.

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 California, accountants regulated by the state or federal government, and those authorized to practice before the Internal Revenue Service are exempt from registration.

An Administrator, appointed by the Governor and confirmed by the Senate, enforces the provisions of the Tax Preparer Act. He/she is assisted by a nine-member State Preparer Advisory Committee which consists of three registrants, three persons exempt from registration, and three public members. All members are appointed to four-year terms.

MAJOR PROJECTS:

Regulatory Change. The Program held a public hearing on May 17 concerning a proposed amendment to section 3230, Chapter 32, Title 16 of the California Code of Regulations. The proposal, which would double the registration fee for tax preparers and tax interviewers from \$25 to \$50 and increase the renewal fee from \$10 to \$40, was sent to the Office of Administrative Law for approval.

The increases are needed for the Program's enforcement budget. The Division of Investigation of the Department of Consumer Affairs handles the Program's enforcement investigations, such as complaints about fraudulent activities or preparers who take consumer funds but neglect to complete tax forms. The registration and renewal fee increases would add \$200,000 to the Program's enforcement budget, up from its current \$31,000 budget allocation. For the past two years, the Program has spent approximately \$230,000 per year for enforcement; the \$400,000 spent over budget was taken out of the Program's reserves.

LEGISLATION:

SB 91 (Boatwright), which would establish a Tax Practitioner Program as part of the Franchise Tax Board on January 1, 1989, remains pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

(See CRLR Vol. 8, No. 2 (Spring 1988) p. 78 for details.)

RECENT MEETINGS:

The Program has held no public meetings since December 17 due to scarce budget resources.

FUTURE MEETINGS:

To be announced.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

Executive Officer: Gary K. Hill
(916) 920-7662

The Board of Examiners in Veterinary Medicine (BEVM) licenses all veterinarians, veterinary hospitals, animal health facilities, and animal health technicians (AHTs). All applicants for veterinary licenses are evaluated through a written and practical examination. The Board determines through its regulatory power the degree of discretion that veterinarians, animal health technicians, and unregistered assistants have in administering animal health care. 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, including two public members. The Animal Health Technician Examining Committee consists of three licensed veterinarians, one of whom must be involved in AHT education, three public members and one AHT.

MAJOR PROJECTS:

Regulation Changes. At its May 13 meeting, the Board conducted a lengthy public hearing to discuss the proposed adoption of section 2037, Chapter 20, Title 16 of the California Code of Regulations, which would clarify the term "dental operation" as it relates to the practice of veterinary medicine. The Board has been concerned about the increasing number of unlicensed individuals providing teeth cleaning services without any formal training in animal dentistry. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 79 for background information.)

The Board has listed a number of concerns regarding the use of manual and ultrasonic scaling devices by untrained individuals, noting that such use