

BACKGROUND PAPER FOR The Structural Control Pest Board of California

**Joint Sunset Review Oversight Hearing, March 14, 2023
Senate Committee on Business, Professions, and Economic
Development and Assembly Committee on Business and Professions**

**IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS
REGARDING THE STRUCTURAL PEST CONTROL BOARD OF
CALIFORNIA**

BRIEF OVERVIEW OF THE STRUCTURAL PEST CONTROL BOARD

History and Function of the Structural Pest Control Board

The Structural Pest Control Act (Act) was established by AB 2382 (Chapter 823, Statutes of 1935). The Act originally was administered by the California Pest Control Association and set minimum standards for the industry including mandating practitioners' experience and continuing education (CE) requirements. In 1941, the Act was codified and Structural Pest Control Board (SPCB or Board) was formed and then began the oversight of the profession.

In 2009, the SPCB was transferred from the Department of Consumer Affairs (DCA) to the Department of Pesticide Regulation (DPR) and then back again to DCA under former Governor Brown's 2011-2012 Reorganization Plan No. 2 and AB 1317 (Frazier, Chapter 352, Statutes of 2013).

The SPCB's highest priority is the protection of the public through its licensing, regulatory, and disciplinary functions within the pest control industry (Business and Professions Code (BPC) § 8520.1).

The SPCB's current mission statement is to:

“Protect the general welfare of Californians and the environment by promoting outreach, education and regulation of the structural pest management professions.”

The SPCB issues three types of licenses for three different practice areas (branches) of pest control. The branch types are:

- *Branch 1 Fumigation* – The practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases.
- *Branch 2 General Pest* – The practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases.
- *Branch 3 Wood Destroying Pests and Organisms (WDO)* – The practice relating to the control of wood-destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.

The license types are:

- *Applicator* - An entry-level license category issued for Branch 2 and 3 only. An Applicator is an individual licensed by the SPCB to apply a pesticide, or any other medium to eliminate, exterminate, control, or prevent infestations or infections. Applicators cannot inject lethal gases used in fumigation.
- *Field Representative* - A full journey-level license issued in all three branches. A Field Representative secures work, makes identifications, makes inspections, submits bids, and contracts for work on behalf of a registered company.
- *Operator* - The highest level of licensure issued in all three branches. Depending on the license category, an Operator must have at least two years, or as many as four years, qualifying experience. Only a licensed Operator may qualify a company for registration by assuming responsibility for the company and its employees as the company Qualifying Manager.

Board Membership and Committees

SPCB is comprised of seven members, including three professional and four public members. The three professional members are licensed Operators appointed by the Governor. Additionally, two public members are appointed by the Governor, one public member is appointed by the Senate Committee on Rules, and one public member is appointed by the Speaker of the Assembly. SPCB members receive a \$100-a-day per diem. Pursuant to BPC § 101.7, all DCA regulatory boards are required to meet at least two times each calendar year. BPC § 8523 requires SPCB to meet annually during the month of October and provides that special meetings may be called at any time. There is currently one public member vacancy as a board member recently resigned on February 9, 2023.

SPCB convenes annually at least three times. The SPCB has maintained full quorum status at all board meetings and committee meetings. All SPCB meetings and committee meetings are subject to the Bagley-Keene Open Meetings Act. The following is a listing of the current SPCB members:

Name	Appointing Authority	Appointment Type	Appointment Date	Expiration Date
<p>Kyle Finley, President Mr. Finley is founder and president at Twin Termite and Pest Control Inc. He is a member of the Sacramento Association of Realtors and the board of Hope and Redeemer House.</p>	Governor	Professional	5/13/2020	6/1/2023
<p>Vacant</p>	Senate	Public		
<p>Yessenia Anderson, Vice President Ms. Anderson is Division Manager of Content and Media Relations at Dignity Health. She was a Senior Public Relations Specialist at VSP Global from 2014 to 2019, a Media Relations Specialist at Perry Communications Group from 2012 to 2014, and a Reporter at KDRV NewsWatch 12 from 2010 to 2012. She is a Fellow with Nueva Epoca.</p>	Governor	Public	6/23/2022	6/1/2025
<p>John Tengan Mr. Tengan is the Territory Manager of The Industrial Fumigant Company for Southern California and Southern Nevada. He is an Associate Certified Entomologist from the Entomological Society of America and holds multiple certifications in Food Safety for the Food and Commodity Industries.</p>	Governor	Professional	8/12/2022	6/2/2025
<p>Mark Paxson Mr. Paxson served as Senior Attorney for the Department of Developmental Services before moving to the State Treasurer's Office in 2002, where he began as Senior Attorney before promoting to General Counsel in 2005. He remained in that position until he retired in 2002 and now works as a retired annuitant for the California Student Aid Commission.</p>	Governor	Public	6/13/2022	6/1/2025
<p>Janet Thrasher</p>	Governor	Professional	8/11/2020	6/1/2023

Name	Appointing Authority	Appointment Type	Appointment Date	Expiration Date
<p>Ms. Thrasher is the co-founder and owner of Thrasher Termite & Pest Control, Inc. Ms. Thrasher has been involved with the Santa Clara Valley District, Pest Control Operators of California for over 25 years and has been the district chairperson for most of the last 10 years. She is a member of the National Pest Management Association, Professional Women in Pest Management, and Silicon Valley Association of Realtors.</p>				
<p>Dr. Ankur Bindal Dr. Bindal is a board-certified psychiatrist & Sleep Specialist, and President & Founder of KAB Medical Group Inc, with 4 locations in San Diego, CA and Los Angeles, CA. Dr. Bindal has more than 16 years of experience in medicine. In addition to holding board certification in psychiatry, from American Board of Psychiatry & neurology, he is also a Board certified sleep medicine practitioner. He currently serves on multiple boards for digital Artificial Intelligence companies, and is a commercial real estate entrepreneur.</p>	Assembly	Public	11/15/2022	6/1/2024

The Board currently has three standing committees. Two committees, the Research Advisory Panel and the Disciplinary Review Committee, are designated in statute. All other committees are formed as needed and committee members are appointed by the SPCB president. The following is a list of Board committees:

Research Advisory Panel—authorized by BPC § 8674(t), and is assigned by the SPCB on an as-needed basis to approve and to fund structural pest control research programs.

Disciplinary Review Committee was established for the purpose of reviewing appeals of orders issued by agricultural commissioners acting under authority of BPC § 8617. The committee, as a county adjudicatory body, does not have the authority to suspend or revoke a license issued by the SPCB that authority rests solely with the SPCB.

Technical Advisory Committee — Considers any matter referred by the SPCB that requires SPCB action but is of such a technical nature that it requires substantial research, input and consideration by persons qualified in that specific topic to make recommendations to the SPCB.

Fiscal, Fund and Fee Analysis

As a regulatory board within the DCA, the SPCB is funded through regulatory fees and license renewal fees and does not receive funds from California’s General Fund (GF). The SPCB administers three funds: 1) Structural Pest Control Fund, 2) Structural Pest Control Education and Enforcement Fund, and 3) Structural Pest Control Research Fund.

The SPCB’s FY 2022-23 fund condition projects a balance of \$3,330,000, with 6 months in budget reserve. For the past four fiscal years, the SPCB’s total program expenditures have increased by 11%. Personnel Services expenditures increased by 21% and OE&E expenditures increased by 0.05%. SPCB attributes the personnel service increase to shifting an AGPA from the education and enforcement fund to the support fund.

The Board’s fund condition is included below:

Fund Condition (Dollars In Thousands)							
	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23*	FY 23/24*	FY 24/25*
Beginning Balance	\$ 1,420	\$ 1,096	\$ 1,610	\$ 2,814	\$ 3,258	\$ 3,330	\$ 3,242
Revenues and Transfers	\$ 229	\$ (125)	\$ (133)	\$ -	\$ -	\$ -	\$ -
Total Revenue	\$ 4,504	\$ 5,932	\$ 6,550	\$ 6,127	\$ 6,537	\$ 6,568	\$ 6,564
Budget Authority	\$ 5,143	\$ 5,475	\$ 5,340	\$ 6,939	\$ 7,245		
Expenditures	\$ 5,057	\$ 5,293	\$ 5,213	\$ 5,683	\$ 6,465	\$ 6,656	\$ 6,853
Loans to General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fund Balance	\$ 1,096	\$ 1,610	\$ 2,814	\$ 3,258	\$ 3,330	\$ 3,242	\$ 2,954
Months in Reserve	2.5	3.7	5.9	6.0	6.0	5.7	5.2

*Projected figures

The board is projected to maintain a 5.2 month reserve level into FY 2024/25. WDO fees account for 81.74% of the Board’s revenue.

Expenditures by Program								
	FY 2018/19		FY 2019/20		FY 2020/21		FY 2021/22	
	Personnel Services	OE&E						
Enforcement	\$ 987	\$ 814	\$ 1,094	\$ 900	\$ 1,044	\$ 938	\$ 1,162	\$ 613
Examination	\$ -	\$ 10	\$ -	\$ 8	\$ -	\$ 2	\$ -	\$ 4
Licensing	\$ 671	\$ 204	\$ 744	\$ 181	\$ 710	\$ 268	\$ 790	\$ 188
Admin.*	\$ 777	\$ 204	\$ 855	\$ 181	\$ 814	\$ 268	\$ 996	\$ 335
DCA Pro Rata	\$ -	\$ 1,095	\$ -	\$ 990	\$ -	\$ 880	\$ -	\$ 1,199
TOTALS	\$ 2,435	\$ 2,327	\$ 2,693	\$ 2,260	\$ 2,568	\$ 2,356	\$ 2,948	\$ 2,339
*Administration includes costs for executive staff, board, administrative support, and fiscal services.								

The Applicator, Field Representative and Operator license renewal fees are due triennially based on the day of issuance. The following are latest fee increases:

Effective 1/1/15	Field Representative exam fee raised to \$50 Field Representative CE Challenge exam fee raised to \$50 Applicator exam fee raised to \$55 Applicator Continuing Education Challenge exam fee raised to \$55 Operator exam fee raised to \$65 Operator Continuing Education Challenge exam fee raised to \$65
Effective 7/1/19	WDO Filing Fee raised to \$3.00
Effective 8/23/19	WDO Filing Fee raised to \$4.00

Staffing Levels

The Board appointed a new Executive Officer in August 2022, and the Assistant Executive Officer position is currently vacant.

Vacancy rates remain stable as staff turnover is rare. For future recruitment purposes, there have been efforts to reclassify the SPCB's Specialist (field investigator) positions to an Investigator classification.

The SPCB sets aside \$50,000 annually for training of County Agriculture Commissioner (CAC) employees and \$5,000 annually for SPCB staff training and development. For at least two decades, the SPCB has provided Structural Regulatory Training to CAC and SPCB employees.

This training (which typically lasts three days) is hands-on, providing mock demonstrations of field practices that are typically encountered by CAC Inspectors, such as requirements for the fumigation of buildings, inspection of pest control vehicles and inspection of Branch 2 and 3 structural pesticide applications.

Structural Regulatory Training is provided by members of the pest control industry, Department of Pesticide Regulation (DPR) and SPCB staff. The training is designed to educate county program staff to effectively carry out their enforcement goals and objectives.

Licensing

As of June 30, 2022, the Board had approximately 24,813 active licenses, 3,566 active Principle and Branch Office Registrations, 2,987 delinquent licensees, and 2,031 current but inactive licensees.

The Board’s licensee population is below:

Licensee Population					
		FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22
Applicator	Active*	6,238	6,170	6,394	6,639
	Delinquent/ Expired	1139	1087	1274	1345
	Inactive	840	818	849	835
	Other**	196	203	214	219
Field Rep.	Active	12,850	13,115	13,698	14,109
	Delinquent/ Expired	1137	1077	1400	1501
	Inactive	771	783	827	853
	Other	550	584	595	600
Operator	Active	3,881	3,877	3,996	4,065
	Delinquent/ Expired	97	91	107	141
	Inactive	308	312	335	343
	Other	285	290	295	303
Principle Registration	Active	3,042	3,054	3,106	3,174
	Delinquent/ Expired	n/a	n/a	n/a	n/a
	Inactive	n/a	n/a	n/a	n/a
	Other	215	218	222	226
Branch Office Registration	Active	433	442	460	482
	Delinquent/ Expired	n/a	n/a	n/a	n/a
	Inactive	n/a	n/a	n/a	n/a
	Other	29	29	30	30

* Active status is defined as able to practice. This includes licensees that are renewed, current, and active.

** Other is defined as a status type that does not allow practice in California, other than retired or inactive.

Examination applications are measured from receipt to eligibility approval for examination. License applications are measured from receipt to license issuance. Applications that are deficient are not counted towards the current processing times as the time it takes for an applicant to respond to a deficiency can fluctuate drastically. SPCB reports continuously meets its performance measure targets for both examinations and licensure.

Licensing Data by Type						
	Application Type	Approved/ Issued	Closed	Cycle Times		
				Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 19/20	RA (Exam)	2,754	1,273	2	27	n/a
	RA (License)	1,217	n/a	4	47	n/a
	RA (Renewal)	856	n/a	*	*	*
	FR (Exam)	5,589	2,132	14	65	n/a
	FR (License)	1,574	n/a	13	51	n/a
	FR (Renewal)	2,918	n/a	*	*	*
	OPR (Exam)	514	220	9	109	n/a
	OPR (License)	143	n/a	20	84	n/a
	OPR (Renewal)	1,160	n/a	*	*	*
FY 20/21	RA (Exam)	3,388	1,555	7	28	n/a
	RA (License)	1,414	n/a	7	28	n/a
	RA (Renewal)	1,224	n/a	*	*	*
	FR (Exam)	5,610	2,500	12	86	n/a
	FR (License)	1,850	n/a	13	44	n/a
	FR (Renewal)	3,878	n/a	*	*	*
	OPR (Exam)	479	327	13	95	n/a
	OPR (License)	258	n/a	19	50	n/a
	OPR (Renewal)	1,512	n/a	*	*	*
FY 21/22	RA (Exam)	3,709	1,807	NYA	NYA	n/a
	RA (License)	1,693	n/a	NYA	NYA	n/a
	RA (Renewal)	949	n/a	*	*	*
	FR (Exam)	6,101	2,472	NYA	NYA	n/a
	FR (License)	1,963	n/a	NYA	NYA	n/a
	FR (Renewal)	3,280	n/a	*	*	*
	OPR (Exam)	648	281	NYA	NYA	n/a
	OPR (License)	199	n/a	NYA	NYA	n/a
	OPR (Renewal)	1,174	n/a	*	*	*
* Not tracked by Board NYA = Not yet available n/a = not applicable						

In the last four FYs, the SPCB has denied 47 license applications based on criminal history. The denials were determined based on substantially related qualifications, functions, or duties of the profession.

Applicator License Requirements			
	Education	Experience	Examination
Branch 2/3	None	None	The examination will ascertain that an applicant has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures, integrated pest management and pesticide label directions.

Field Representative License Requirements			
	Education	Experience	Examination
Branch 1	None	Six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating. Of this six months' experience, a minimum of 100 hours of training and experience must be in the area of preparation, fumigation, ventilation, and certification.	The examination will ascertain that an applicant is qualified in the use and understanding of the safety laws of the state, provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice of pest control, and other state laws, safety or health measures, or practices as are reasonable within the scope of structural pest control.
Branch 2	None	A minimum of 40 hours of training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice, of which 20 hours are actual field work. The minimum hour requirement must include training and experience in Integrated Pest Management and the impact of structural pest control services on water quality.	The examination will ascertain that an applicant is qualified in the use and understanding of the safety laws of the state, provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice of pest control, and other state laws, safety or health measures, or practices as are reasonable within the scope of structural pest control.

Branch 3	None	A minimum of 100 hours of training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing, of which 80 hours are actual field work. The minimum hour requirement must include training and experience in Integrated Pest Management and the impact of structural pest control services on water quality.	The examination will ascertain that an applicant is qualified in the use and understanding of the safety laws of the state, provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice of pest control, and other state laws, safety or health measures, or practices as are reasonable within the scope of structural pest control.
----------	------	---	--

Operator License Requirements			
	Education	Experience	Examination
Branch 1	Successful completion of board-approved course in the areas of pesticides, pest identification and biology, contract law, rules and regulations, business practices, and fumigation safety.	Two years' actual experience in the practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases. One-year of experience must have been as a licensed field representative in Branch 1 (B&P Section 8562).	Operators must complete a Pre-Op Course before taking the licensure exam. Must successfully pass written examination with a score of 70% or better. The examination will ascertain that the applicant is qualified in the use and understanding of the English language, including reading, writing, the building and safety laws of the state and any of its political subdivisions, the labor laws of the state, the provisions of the Structural Pest Control Act, poisonous and other dangerous chemicals used in pest control, the theory and practice relating to the control of household and wood destroying pests or organisms by fumigation with poisonous or lethal gases, and other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control, including an applicant's knowledge of the requirements regarding health effects and restrictions.
Branch 2	Successful completion of board-approved course in the areas of pesticides, pest identification and biology, contract law, rules and regulations, and business practices.	Two years' actual experience in the practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases. One-year of the required two years' experience must have been as a field representative in Branch 2.	
Branch 3	Successful completion of board-approved course in the areas of pesticides, pest identification and biology, contract law, rules and regulations, business practices, and construction repair and preservation techniques.	Four years' actual experience in the practice relating to the control of wood destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases. Two years of the required four years' experience must have been as a field representative in Branch 3.	

The SPCB requires primary source documentation for examination, licensing, renewal, and company registration. Primary source documents are required for criminal history (CORI) reviews, Pre-Operator course certificates for examination, Certificate of Training and Experience certified by the Qualified Manager of a registered company, Continuing Education (CE) certificates for renewal of a license, confirmation of legal, contractual, and financial obligation, verification of identity, license verification from other jurisdictions, military or refugees status, and professional verification of disability for reasonable accommodation requests. Additionally, source documents are required to be presented in person at all PSI Exams sites to verify identity, prior to admittance of examination.

Out of state applicants must submit a certified license history, as well as a copy of the State's Rules and Regulations, to verify equivalency and time period of experience. Current and previous license files are reviewed to confirm periods of employment, current/previous license status, enforcement/disciplinary actions, and business associations.

All license applicants are required to declare under penalty of perjury the following:

- if a professional or vocational license refused, denied, suspended or revoked by SPCB or any other State agency;
- if any pending disciplinary actions against them in regards to any professional or vocational licenses; have been associated with any person, partnership or corporation, whose professional or vocational license was refused, denied, suspended or revoked by SPCB or any other State agency; and
- if they been found guilty of any violation or any provision of the Structural Pest Control Board Act.

Applicants that mark yes to any of the above questions are required to include a signed detailed statement with their license application. To confirm legitimacy of information provided, staff reviews Consumer Affairs System (CAS) records or other states licensing databases, for pending complaints, citations, and accusations. If additional information is needed, a certified license history and/or written documentation from other State agencies and/or Agricultural Commissioners may be requested.

Over the last four years, the SPCB has not denied a license based solely on the applicant's failure to disclose information on the application, including failure to self-disclose criminal history. Applications that appear to contain falsified or misrepresented information have been reviewed and denial based on findings ultimately unrelated to failure of disclosure. Requests for disclosure of any additional information regarding an applicant's criminal history and mitigating information is voluntary.

All license applicants are required to be fingerprinted for a criminal history background check through the Criminal Offender Record Information program (CORI). Applicants denied based on criminal history are sent information regarding the basis of denial and rights for appeal. Upon issuance, the SPCB continues to receive subsequent CORI notifications, until a licensee no longer holds a license and/or Company Registration with the SPCB, at which point a No Longer

Interest (NLI) request is submitted to DOJ, through the Applicant Agency Justice Connection (AAJC) portal.

The SPCB does not use a national databank for disciplinary actions in connection with license issuance or renewals. However, the SPCB requires applicants to disclose prior disciplinary actions (including misdemeanors and felonies) from all states and regulatory bodies.

Applicants passed the SPCB’s licensing examinations during their first attempt at an average rate of 62%, compared to an average pass rate on re-examination of 45%. According to SPCB, due to the nature of a structural pest control license, it is imperative that one is able to read and understand the label and label instructions when applying pesticides, therefore, the SPCB does not offer exams in languages other than English.

Continuing Education

Licensees are required to complete CE specific to the branch they are licensed in every three years. Applicators are required to complete a total of 12 hours of CE, including six hours of pesticide application and use, four hours of SPCB rules and regulations, and two hours of integrated pest management. Field Representatives and Operators are required to complete a total of 16 hours of CE, including four hours specific to each branch they are licensed in, eight hours of SPCB rules and regulations, two hours of integrated pest management, and two hours in any other category. No changes have been made to CE requirements in the past four years, but the SPCB is considering amending CE categories.

The consequences for failing a CE audit depend on the severity of the failure and penalties range from corrective action (citation and fine) to disciplinary action (suspension or license revocation). During the last four FYs, the SPCB found that 335 licensees failed the audit with a failure rate of 13%.

Continuing Education Audits				
Fiscal Year	License Type	Number Audited	Number Failed	Failure Rate
2018/19	Applicator	115	23	20%
	Field Representative	499	72	15%
	Operator	327	28	9%
	TOTAL	941	123	13%
2019/20*	Applicator	83	15	18%
	Field Representative	297	53	18%
	Operator	308	28	9%
	TOTAL	688	96	14%
2020/21	Applicator	162	21	13%
	Field Representative	442	66	15%
	Operator	382	29	8%

	TOTAL	986	116	12%
2021/22	Applicator	134	Pending	Pending
	Field Representative	500	Pending	Pending
	Operator	410	Pending	Pending
	TOTAL	1,044		

The SPCB approves CE courses that meet specified requirements including examinations, hours in the course, and content. Licensees must obtain a passing score of 70% or better to obtain a certificate of course completion. If the examination is failed, the licensee shall be allowed to be reexamined by taking a different examination within sixty days.

Since SPCB’s last sunset review, they have received 41 applications for CE providers and approved 40 of them; 1,704 CE course applications and approved 1,617 of them. Of the 1,617 approved courses, 1,209 were initial course applications and 408 were course renewal applications.

Enforcement

The SPCB’s prioritization policy is consistent with the DCA’s guidelines appropriate for the license population it is charged to oversee. Cases are applied a level of priority based on three categories: urgent, high priority and routine. Urgent cases include fumigation deaths, arrests or convictions, and cases that are reporting elder abuse or significant financial damages. High priority cases include probation violations, unlicensed activity with moderate financial damages, or fraud. Routine cases include advertising violations, improper inspections and any case that shows minor to no financial damages.

On average, SPCB receives approximately 337 complaints per year since FY 2019/20. SPCB notes 86% of cases brought for accusations have been settled rather than resulting in a hearing. The most significant challenges facing the enforcement division have been identified in the SPCB’s strategic plan and are listed here:

- 2.1 Increase positive proactive education and enforcement to improve the integrity and relationship with the industry.
- 2.2 Increase working relationships with county agricultural commissioners and the Department of Pesticide Regulations/Environmental Protection Agency (EPA) to reduce incidents of unlawful pest control services.
- 2.3 Seek authority to suspend and/or (with cause) revoke a license for non-compliance of a citation (unpaid citation or fine) to accelerate compliance and reduce outstanding fines.

Overall statistics show a decrease in disciplinary actions since the last sunset review. In 2019, the SPCB stopped pursuing discipline in cases regarding Field Representative Licenses that were short 75% or more of their required hours. Rather, the SPCB issues the maximum citation and

fine instead of filing an accusation. This change resulted in approximately 15 to 20 less accusations being filed.

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

The Board was last reviewed by the Legislature through sunset review in 2018-2019. During the previous sunset review, 11 issues were raised. In January 2023, the Board submitted its required sunset report to the Senate Committee on Business, Professions, and Economic Development and Assembly Committee on Business and Professions (Committees). In this report, the Board described actions it has taken since its prior review to address the recommendations made. The following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made. For those which were not addressed and which may still be of concern to the Committees, they are addressed and more fully discussed under “Current Sunset Review Issues.” To review a copy of the SPCB’s 2022 Sunset Review Report, please visit the Board’s website, <https://www.pestboard.ca.gov/>.

- **Continuing Education Audits.** Applicator, Field Representative and Operator licensees are required to complete CE every three years. During the last sunset review, the Board was focusing their attention to Operator CE audits. There were no audits of field representatives in FY 2015/16. Verifying licensee CE information can take up staff time and as a result there are low audit rates. The Committees recommended the Board explore innovative ways to increase audits. The Board has identified several ways to streamline the CE course submissions upon renewal, as well as any automation opportunities for auditing of course attendance via online submission by the CE provider.
- **Enforcement Powers.** In its 2018 Sunset Review Report, the SPCB stated that in order to combat the most significant challenges facing its enforcement division, the SPCB plans to seek to add or amend statute and regulations to give itself greater authority to levy sanctions against licensees and companies for failure to comply with the SPCB’s laws and regulations in the following categories: license maintenance (i.e. Secretary of State filings, bonds, and insurance), timely filing of WDO inspection reports, production of records/retention, mandatory supervision, terms and conditions of probation, and eligibility for licensure reinstatement. Since the last Sunset Review, SB 1481 (Chapter 572, Statutes of 2018) was enacted to address these issues.
- **Complaints.** In the 2014 Sunset Review, complaints dropped significantly and was attributed to the 2008 housing crisis. Then, in the 2018 Sunset Review, the complaints increased as the housing market shifted. The Committees requested an update on collaborate efforts with Department of Industrial Relations (DIR), Division of Labor Standards Enforcement (DLS), and sibling agencies to counteract the negative effects of the underground economy as well as exploration of expanding and/or increasing enforcement staff. SPCB reports that complaints have again decreased due to the decline in single-family home sales. The Board is no longer collaborating with DIR or DLS and are facing enforcement staff issues due to retirement eligibility of 85% of staff and low pay.

CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the Board and other areas of concern that should be considered, along with background information for each issue. There are also recommendations Committee staff have made regarding particular issues or problem areas SPCB needs to address. SPCB and other interested parties have been provided with this Background Paper and SPCB will respond to the issues presented and the recommendations of staff.

BOARD ADMINISTRATION ISSUES

ISSUE #1: (RESEARCH PROJECTS) What is the status of the Research Advisory Panel and research projects?

Background: Requests for research by the SPCB are conducted by the Research Advisory Panel and are then presented to the SPCB for consideration and implementation. SPCB approved topics are then vetted through a request for proposals (RFP) process and are advertised statewide. Following award of the contract(s), information regarding the progress of research is published on the SPCB's website.

The SPCB's research is paid for through the Research Fund, which is supported through a \$2 fee on each pesticide use stamp purchased from the SPCB. Each year during the past three years, approximately 70,000 pesticide use stamps were purchased and approximately \$140,000 was added into the Research Fund. Typically, the SPCB waits to build up its Research Fund before initiating a research project.

According to the SPCB website, the SPCB has not conducted any major studies since 2011. The SPCB convened in January 2017 and approved the Research Advisory Committee's recommendations to submit a RFP to DCA's Contracts Unit. The topic of research involves studies surrounding the ingestion of rodenticides by non-target pests and best practices in the performance of integrated pest management. As of February 2018, the RFP is still pending approval from DCA before it can be release to University of California researchers.

In the past, the SPCB has conducted research on issues important to consumers and licensees. Since the SPCB continues to collect fees in order to fund research, the SPCB should ensure that it is properly serving its consumers and licensees by producing relevant research in a timely manner. DCA should ensure that it is providing its boards, including the SPCB, with the appropriate support to do so.

Staff Recommendation: *The SPCB should update the Committees on the status of the RFP. The SPCB should also update the Committees on the total amount of funds in the Research Fund. The SPCB should further establish plans to ensure more frequent studies of relevant issues in the structural pest control industry are conducted*

ISSUE #2: (VACANCY RATE) Can the Board expand on its current staff vacancy rates? What does “stable” mean? How many positions are currently vacant? What has been the average vacancy rate since 2018? Why are there increases in cost with respect to staffing?

Background The Board’s Sunset Review Report 2023, references the Board’s appointment of a new Executive Officer in August 2022, while the Assistant Executive Officer position is currently vacant.

It also states that vacancy rates remain stable as staff turnover is rare. For future recruitment purposes, there have been efforts to reclassify the SPCB’s Specialist (field investigator) positions to an Investigator classification. SPCB said that it also has attributed the personnel service increase to shifting an AGPA from the education and enforcement fund to the support fund. As noted in the Board’s 2022 sunset review report, shifting staff has increased the cost for personnel expenses.

Staff Recommendation: *The SPCB should update the Committees on the status on vacancies.*

BOARD LICENSING AND WORKFORCE ISSUES

ISSUE #3: (EXAMINATION PASSAGE) How is the Board working on increasing the passage rate for licensing examinations?

Background: The Board requires successful passage of an examination for applicators, field representatives, and operators. Applicants must pass the test with a 70% or better. All tests are conducted in English, and are a computer-based testing. The Board contracts with an approved DCA-vendor, PSI testing. There are currently 20 test sites throughout California and 22 location across the U.S. To prepare for the examination, all applicants are provided study guide material and a candidate handbook once approved by the Board to take the examination.

According to information provided in the Board’s Sunset Review Report 2022, it appears that in recent years, the passage rates reported by the Board are extremely low for all branch, filed representative, and operator license applicants. Applicants passed the SPCB’s licensing examinations during their first attempt at an average rate of 31.17%, compared to an average pass rate on re-examination of 17.62%. With the exception of the Applicator and Field Representative examination pass rate of 76% in 2021, the examination rates remain low.

Table 8. Examination Data					
License Type		Applicator	Field Rep.	Field Rep.	Field Rep.
FY 2018/19	Number of Candidates	88	88	3,722	1,160
	Overall Pass %	50%	50%	49%	44%
	Overall Fail %	50%	50%	51%	56%
	Number of Candidates	55	55	2,714	911

FY 2019/20	Overall Pass %	55%	55%	57%	56%
	Overall Fail %	45%	45%	43%	44%
FY 2020/21	Number of Candidates	71	71	2,886	1,075
	Overall Pass %	76%	76%	67%	44%
	Overall Fail %	24%	24%	33%	56%
FY 2021/22	Number of Candidates	64	64	3,207	1,182
	Overall Pass %	67%	67%	58%	45%
	Overall Fail %	33%	33%	42%	55%

Table 8. Examination Data (Continued)				
License Type		Operator	Operator	Operator
FY 2018/19	Number of Candidates	36	284	173
	Overall Pass %	31%	49%	46%
	Overall Fail %	69%	51%	54%
FY 2019/20	Number of Candidates	27	288	99
	Overall Pass %	33%	43%	83%
	Overall Fail %	67%	57%	17%
FY 2020/21	Number of Candidates	20	302	130
	Overall Pass %	50%	77%	65%
	Overall Fail %	50%	23%	35%
FY 2021/22	Number of Candidates	35	374	174
	Overall Pass %	37%	44%	60%
	Overall Fail %	63%	56%	40%

However, the Board reported to the Committees that the data in the Sunset Review Report 2022, is inaccurate and the average pass rate is closer to 62% for an initial pass rate and 45% for those who take the examination a second time. 62% is still a relatively low passage rate for an examination, which is intended to assess baseline competency in the industry.

Staff Recommendation: *The Board should advise the Committees on why the examination pass rates remains so low. Should the Board expedite any upcoming occupational analyses?*

ISSUE #4: (CONTINUING EDUCATION AUDIT) Has the Board provided sufficient details regarding its effort to audit CE providers? What are recognized investigative techniques? What are some frequently asked questions regarding the CE educational or informational audit?

Background: Pursuant to § 1950 et seq. of Title 16 of the California Code of Regulations (CCR), every licensee is required, as a condition to renewal of a license, to certify that they have completed the continuing education requirements. Continuing education requirements vary depending on the type of license and number of categories held by the individual licensee. The number of required hours varies from 12 to 24 hours during a renewal period. The SPCB requires licensees to complete continuing education specific to the technical branches they are licensed in. Applicators are required to complete 12 hours of continuing education of which 6 hours must cover pesticide application and use, 4 hours must cover the Structural Pest Control Act and its rules and regulations, and 2 hours must cover integrated pest management. Field Representatives and Operators must complete 8 hours covering the Structural Pest Control Act and its rules and regulations, 4 hours specific to each technical branch they are licensed in, and 2 hours covering integrated pest management and 2 hours in any other related category.

Additionally, the background paper states that the SPCB's investigators and internal staff audit CE providers as issues are raised, as well as periodically audit CE providers (up to 12 times per year) to ensure compliance with the SPCB's laws, rules and regulations. SPCB investigators, who also hold pest control licenses (inactive status by state policy), are also required per SPCB policy to maintain CE requirements.

The CE audit process may either be: 1) Educational or informational, or 2) Investigative. Educational or informational is a process by which SPCB's administrative or investigative staff responds to frequently asked questions or provides general guidance to the CE provider to ensure compliance with statutory or regulatory requirements.

The investigative process is initiated either proactively whereby CE providers are investigated randomly or, as issues are raised to the SPCB by formal or informal complaints, reactively to consider the imposition of course decertification or criminal prosecution. SPCB investigators use recognized investigative techniques and sources of information (i.e., law enforcement or the judicial system) to assist in gathering all facts associated with a given investigation to assess whether violations of law should be pursued.

Staff Recommendation: *SPCB should inform the committee of the details of its CE provider audits. Are any statutory updates necessary?*

BOARD ENFORCEMENT ISSUES

ISSUE #5: (CRIMINAL RECORD INQUIRIES.) Is the Board having any trouble obtaining Criminal Record Offender Records?

Background: Pursuant to BPC § 144, all license applicants are required to be fingerprinted for a criminal history background check through the Criminal Record Information Program (CORI). Applicants do not receive a license until CORI information is received from the DOJ, and the Board determines that an occurrence of a crime is not substantially related to the qualifications,

duties, or functions of the licensee.

Effective July 1, 2004, all license applicants must be fingerprinted for a criminal history background check through the Board's Criminal Offender Record Information program. Because this law could not be enforced retrospectively, only applicants filing applications for licensure on or after July 1, 2004 and current licensees upgrading their licenses (i.e. upgrading a field representative license to an operator license) were subject to the requirements of this legislation. Effective February 29, 2016, the Board updated its policy by promulgating regulations (CCR § 1960) to require all licensees, whose licenses were issued on or before July 1, 2004, to submit to fingerprinting as soon as administratively feasible but no later than the date of licensure renewal beginning June 30, 2016 through June 30, 2018 therefore capturing any licensee not previously fingerprinted.

As is standard practice for most boards and bureaus when a license is no longer holds a license/registration issued under the SPCB, a No Longer Interested notice is set to the DOJ to ensure no additional arrest notifications are submitted to the Board as they are no longer necessary.

Staff Recommendation: *The Board should advise the Committees on whether it is having any challenges obtaining criminal record history or subsequent arrest notifications from the Department of Justice. Has anyone reached out to the Board requested updates to provisions authorizing the Board's authority to obtain criminal record history from licensing applicants?*

COVID-19

ISSUE #6: (IMPACTS OF THE COVID-19 PANDEMIC.) Beginning in March 2020, until the sunset of the official State of Emergency on February 28, 2023, there have been a number of waivers issued through Executive Orders that impact boards and bureaus under the DCA. In addition, many boards and bureaus transitioned operations to do to the COVID-19 pandemic. How has the Board responded to the COVID 19 pandemic?

Background: In response to the COVID-19 pandemic, a number of actions were taken by the Governor, including the issuance of numerous executive orders in order to address the immediate crisis. For example, on March 30, 2020, the Governor issued Executive Order N-39-20 authorizing the Director of DCA to waive any statutory or regulatory professional licensing relating to healing arts during the duration of the COVID-19 pandemic – including rules relating to examination, education, experience, and training.

Some of the waivers impact the Board's work and the Board's licenses. For example, Executive Order N-40-20 permits the Director of DCA to waive any statutory or regulatory requirements with respect to CE a number of licensees. The Board reports in its Sunset Review Report 2022, it received requests from 49 licensees during the 2020-2021 renewal periods and approved all requests; however, the Board also noted that it denied 31 renewal requests because the licensees did not meet the CE waiver by the approved deadline and were subsequently canceled because

the executive order was only effective between May 30, 2020 and July 28, 2020. On June 3, 2021, the Governor again waived renewal requirements to licensees that expire between March 31, 2020 and July 31, 2021, and 41 licensees applied for the waiver, but the Board did not report how many were approved and denied.

Like many boards and bureaus under the DCA, the Board had to utilize remote meetings during the COVID-19 pandemic, then transitioned to a hybrid format and is currently utilizing both an in-person and virtual format depending on the meeting. Additionally, the Board notes that it transitioned staff to remote work during the pandemic. The Board notes that it is abiding by DCA's Re-Open Plan guidelines for conducting business during the pandemic, but it is unclear on what, if any changes, instituted during the pandemic the Board is continuing to utilize, is seeking to phase out, or believes should continue relating to workforce.

As the declared State of Emergency sunset of February 28, 2023, sunset provides an important opportunity for the Board to reflect on changes implemented during the pandemic to determine if any change merit continuation or how to better prepare itself for any future emergencies.

Staff Recommendation: *The Board should update the Committees on the impact to licensees, industry and consumers stemming from the pandemic and potential challenges for future licensees. In addition, the Board should discuss any statutory changes that are warranted as a result of the pandemic.*

TECHNICAL CHANGES

ISSUE #7: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF SPCB'S OPERATIONS.) There may be technical amendments which may improve SPCB's operations and the enforcement of the Act.

Background: There may be code updates or statutory revisions or other technical updates related to operations of the SPCB, which may improve the Board's operations and application of the statutes governing SPCB's work.

Staff Recommendation: *The SPCB should advise the committees on any potential technical changes, which may be necessary to improve efficiencies and operations at the Board.*

CONTINUED REGULATION OF THE STRUCTURAL PEST CONTROL PROFESSION BY THE CURRENT STRUCTURAL PEST CONTROL BOARD

ISSUE #8: (CONTINUED REGULATION BY THE SPCB) Should the licensing and regulation of structural pest control be continued and should the profession continue to be regulated by the current SPCB membership?

Background: The health, safety, and welfare of consumers are protected by the presence of a strong licensing and regulatory SPCB with oversight over the structural pest control industry. The SPCB should be continued with an extension of its sunset date so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

Staff Recommendation: *Recommend that the licensing and regulation of structural pest control continue regulation by the Structural Pest Control Board in order to protect the interests of the public and be reviewed once again at a date to be determined.*