

California Structural Pest Control Board Rules

California Business and Professions Code Division 3. Professions and Vocations Generally

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BUSINESS AND PROFESSIONS CODE SECTION 8500-8519.5

8500. Unless the text otherwise requires, the general provisions hereinafter set forth govern the construction of this chapter.

8501. "Director" refers to the Director of Consumer Affairs.

8502. "Board" refers to the Structural Pest Control Board.

8503. "Registrar" refers to the registrar of the Structural Pest Control Board.

8503.5. "Committee" means the Disciplinary Review Committee established pursuant to Section 8660.

8504. "Person" includes an individual, firm, partnership, corporation, limited liability company, association or other organization or any combination thereof.

8505. "Structural pest control" and "pest control" as used in this chapter are synonymous. Except as provided in Section 8555 and elsewhere in this chapter, it is, with respect to household pests and

wood destroying pests or organisms, or such other pests which may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, any of the following: identification of infestations or infections; the making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by such pests or organisms; the making of inspection reports, recommendations, estimates, and bids, whether oral or written, with respect to such infestations or infections; and the making of contracts, or the submitting of bids for, or the performance of any work including the making of structural repairs or replacements, or the use of insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances, or mechanical devices for the purpose of eliminating, exterminating, controlling or preventing infestations or infections of such pests, or organisms.

"Household pests" are defined for the purpose of this chapter as those pests other than wood destroying pests or organisms, which invade households and other structures, including, but not limited to, rodents, vermin and insects.

8505.1. (a) Except as provided in subdivisions (b) and (c), for the purpose of this act, "fumigation" shall be defined as the use within an enclosed space for the destruction of plant or animal life, a substance having a vapor pressure greater than 5 millimeters of mercury at 25 degrees centigrade when the substance is labeled for those purposes.

The following is a list of lethal fumigants:

- (1) Methyl bromide.
- (2) Sulfur dioxide.
- (3) Propylene oxide.
- (4) Sulfuryl fluoride.
- (5) Aluminum phosphide.

The board may adopt, and may as necessary amend, by regulation, a list of fumigants.

(b) For the purpose of this act, "warning agent" shall be any agent used in combination with any fumigant that lacks warning properties.

The following is a warning agent:

Chloropicrin.

The board may adopt, and may as necessary amend, by regulation, a list of warning agents.

(c) For the purpose of this act "simple asphyxiants" shall not be deemed to be fumigants.

The following is a list of simple asphyxiants:

- (1) Liquid nitrogen.
- (2) Carbon dioxide.

The board may adopt, and may as necessary amend, by regulation, a list of simple asphyxiants.

8505.2. Fumigation shall be performed only under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in a branch of pest control which includes fumigation or who is the qualifying manager of a registered company which is so registered.

8505.3. "Direct and personal supervision" as used in Section 8505.2 means that the licensee exercising such supervision shall be present at the site of the fumigation during the entire time the fumigants are being released, the time ventilation is commenced, and at the time property is released for occupancy.

8505.4. Fumigation shall be performed in compliance with all applicable state, county, city, and city and county laws and ordinances and all applicable laws and regulations of the United States.

8505.5. Notice of the date and place of fumigation, and chemicals to be used, shall be given by the fumigator to the fire department serving the area in which fumigation is to be performed not less than two hours prior to the time fumigation begins. The fire department shall not charge any fees for any service related to structural pest control activities except for the costs of an emergency response necessitated by illegal or negligent actions.

If requested by the county agricultural commissioner, notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed. The notice, which may be mailed or given by telephone, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. No fee shall be assessed for processing the notice which may be requested by the commissioner.

8505.6. During the process of fumigation the room or apartment being fumigated, together with all rooms and apartments, including rooms or apartments on the same floor and those above, below, and adjacent thereto, shall be vacated by the occupants thereof. During the process of such fumigation, all rooms, apartments, and hallways adjacent to the rooms, apartments or spaces undergoing fumigation, shall be kept well ventilated and warning signs as herein prescribed stating such fact of fumigation shall be kept posted at all entries to such rooms or apartments during the time of such fumigation and thereafter until all such premises are safely ventilated free of all fumes. All rooming or apartment houses designed for the use of four families or less shall be entirely vacated and closed against entry thereto and occupancy thereof while fumigation is being performed therein and until the same is safely ventilated free of all fumes.

8505.7. The space to be fumigated shall be vacated by all occupants prior to the commencement of fumigation, and all entrances thereto shall be locked, barricaded, or otherwise secured against entry until the end of exposure period, then opened for ventilation and relocked, barricaded, or otherwise secured against re-entry, until declared by the licensee exercising direct and personal supervision over the fumigation to be safe for reoccupancy.

8505.8. Prior to the commencement of fumigation, the space to be fumigated shall be sealed in such manner that tests taken before ventilation is begun will show that the required concentration of the fumigant released within the space has been retained therein, in compliance with the manufacturer's recommendations.

8505.9. Prior to the commencement of fumigation, warning signs shall be posted in plainly visible locations on or in the immediate vicinity of all entrances to the space under fumigation and shall not be removed until fumigation and ventilation has been completed, and the premises safe for reoccupancy. Ventilation shall be conducted with due regard for the public safety.

8505.10. Warning signs shall be printed in red on white background and shall contain the following statement in letters not less than two inches in height: "DANGER--FUMIGATION." They shall also depict a skull and crossbones not less than one inch in height and shall state in letters not less than one-half inch in height the name of the fumigant, the date and time fumigant was injected, and the name, address and telephone number of the registered company performing the fumigation. Warning signs placed under a tarpaulin shall not be required to state the time the fumigant was injected.

8505.11. If the structure which has been fumigated has an attic or if the area underneath such structure is accessible to inspection for purposes of structural pest control, the registered company which performed the fumigation shall, immediately upon completion, post in the attic, immediately adjacent to the entrance thereto, or in the area underneath the structure, immediately adjacent to the main entrance vent thereof, or in both of such places if the structure has an attic and an accessible underarea, a durable sign not less than five inches by seven inches in size stating the name of the registered company, the date of fumigation, and the type of fumigant used.

8505.12. A registered company performing fumigation shall use an adequate warning agent with all fumigants which lack such properties.

When conditions involving abnormal hazards exist, the licensee exercising direct and personal supervision shall take such safety precautions in addition to those prescribed by this chapter as are reasonably necessary to protect the public health and safety.

8505.13. A registered company shall maintain a log of each fumigation job performed by it in this state. The log shall be in the form required by the regulations of the board and shall be preserved for a period of at least three years, during which time it shall be available at all times during business hours for inspection by the board and its authorized representatives.

8505.14. "Fumigator" means any individual licensed by the board as a structural pest control operator or as a structural pest control field representative in the branch of pest control which includes fumigation as set forth in Section 8560.

8505.15. Two effective masks of a type approved by the National Institute of Occupational Safety and Health for protection against the fumigant being used shall be made readily available by the registered company to a fumigating crew whenever a fumigant is introduced into or removed from a structure.

8505.16. All fumigators shall be familiar with and able to administer artificial respiration by the best method or methods recommended currently by the Red Cross in its standard texts on first aid.

All fumigating crews shall be outfitted with a safety kit containing safety equipment as specified by the manufacturer's label instructions and by all applicable laws and regulations.

8505.17. (a) There is hereby created in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Pesticide Regulation for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 and Section 15202 of the Food and Agricultural Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

(b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section 8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.

(c) Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide, the amount used,

and the number of applications made. The report shall be submitted to the commissioner by the 10th day of the month following the month of application. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall have affixed thereto a pesticide use stamp issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and for the refund of moneys paid for stamps which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. No pesticide use stamp is required on negative use reports.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

8506. (a) "Structural pest control operator" is any individual licensed by the board to practice structural pest control.

(b) As used in this chapter, "operator" refers to "structural pest control operator."

(c) In the event of death of a licensee, the executor or administrator of the deceased person may obtain from the board written authorization for such executor or administrator to conduct the business of such deceased licensee for a period not to exceed one year after the date of death for the purpose of winding up or disposing of the structural pest control business of the deceased licensee; but such authorization shall not entitle such executor or administrator to solicit, engage in, or undertake any structural pest control work not already contracted for by such deceased licensee unless a properly classified and licensed operator is employed to manage, supervise, and direct the business.

8506.1. A "registered company" is any sole proprietorship, partnership, corporation, or other organization or any combination thereof which is registered with the Structural Pest Control Board to engage in the practice of structural pest control.

A registered company may secure structural pest control work, submit bids, or otherwise contract for pest control work. A registered company may hire licensed field representatives and licensed operators to identify infestations or infections, make inspections, and represent the company in the securing of pest control work. A registered company may hire or employ individuals who are not licensed under this chapter to perform work on contracts covering wood-destroying organisms only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job.

A registered company may hire and use individuals who are not licensed under this chapter on service contracts already established.

8506.2. A "qualifying manager" is the licensed operator or operators designated by a registered company to supervise the daily business of the company and to be available to supervise and assist the company's employees.

8507. (a) "Structural pest control field representative" is any individual who is licensed by the board to secure structural pest control work, identify infestations or infections, make inspections, submit bids for or otherwise contract, in behalf of a registered company.

A pest control field representative shall not contract for pest control work or perform pest control work in his or her own behalf.

(b) As used in this chapter, "field representative" refers to "structural pest control field representative."

8507.1. (a) "Structural pest control applicator" is any individual who is licensed by the board to apply a pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests or organisms included in Branch 2 or Branch 3 on behalf of a registered company.

A structural pest control applicator shall not contract for pest control work or perform pest control work in his or her own behalf.

(b) As used in this chapter, "applicator" refers to "structural pest control applicator."

8508. "Household" means any structure and its contents which are used for man and his convenience.

8509. "Branch office" is any fixed place of business in addition to the location of business for which the company registration is issued, where records are kept, mail received, statements rendered, money is collected, or requests are received for service or bids, or information is given pertaining to the practice of pest control, other than governmental offices.

8510. For purposes of this chapter, "wood preservative" means any coating formulated to protect wood surfaces from deterioration caused by insects, fungus, rot, and decay and which contains a wood preservative chemical that is registered with the California Department of Food and Agriculture and the United States Environmental Protection Agency.

8511. "Manufacturer" is a person engaged in the processing of materials used in the practice of pest control, but who does not himself engage in such practice.

8512. "Employer" refers to a registered company which hires operators, field representatives, applicators, and other individuals, the latter not being required to be licensed under this chapter, and who work on pest control jobs under the supervision of an operator or field representative.

8513. (a) The board shall prescribe a form entitled "Notice to Owner" that shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a registered pest control company thereunder. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.

(b) No company that is required to be registered under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.

(c) Each company registered under this chapter that acts as a subcontractor for another company registered under this chapter shall, within 20 days of commencement of any work for which a company registration is required, give the preliminary 20-day notice (private work) in accordance with the provisions of Section 3097 of the Civil Code, to the owner, his or her agent, or the payer.

(d) Each company registered under this chapter that acts as a prime contractor for work for which a company registration is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics' lien by any subcontractor entitled to enforce a mechanics' lien pursuant to Section 3114 of the Civil Code.

(e) Each company registered under this chapter that subcontracts to another company registered under this chapter work for which a company registration is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.

(f) The provisions of this section shall be applicable only to those registered companies, as defined in Section 8506.1, operating pursuant to a Branch 1 or Branch 3 registration.

(g) A violation of the provisions of this section is a ground for disciplinary action.

8514. No registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made.

Notwithstanding any provision of this chapter, after an inspection has been made a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but its branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided it subcontracts in writing the actual performance of the work to a registered company which holds a branch registration authorizing the particular method to be used.

A registered company may in writing subcontract any pest control work for which it is registered in any branch or branches to a registered company holding a valid branch registration to do such work.

Nothing in this chapter shall be construed to prohibit a registered company or the consumer from subcontracting with a licensed contractor to do any work authorized under Section 8556.

A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer must be informed in advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

Nothing herein contained shall permit or authorize any registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified or registered to perform, pest control work in any branch, or by any method, for which it is not registered.

Subcontracting of work, as permitted herein, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, any act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for any act or omission in the performance of the work that the consumer directly contracts with another registered company to perform, as permitted by this section.

8514.5. It is unlawful for any registered company under this chapter when billing for any subcontracted work authorized under Section 8514, to charge, bill, or otherwise solicit payment from the consumer for any structural fumigation work not actually rendered by the registered company or under its direct supervision unless the consumer, prior to authorizing the performance of the work, is provided in writing with the following statement:

"NOTICE: The charge for service that this company subcontracts to another registered company may include the company's charges for arranging and administering such services that are in addition to the direct costs associated with paying the subcontractor. You may accept (company name's) bid or you may contract directly with another registered company licensed to perform the work.

If you choose to contract directly with another registered company, (company name) will not in any way be responsible for any act or omission in the performance of work that you directly contract with another to perform."

8515. Nothing in this chapter shall prohibit a company registered hereunder from authorizing an officer, partner, or employee to submit bids, after an inspection by an individual licensed as an operator or field representative under this act, or to sign contracts after negotiation by an individual licensed as an operator or field representative under this act, on behalf of the registered company.

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

A written inspection report conforming to this section and a form approved by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent within 10 business days of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all original inspection reports, field notes, and activity forms.

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original inspection reports or copies thereof shall be submitted to the board upon request within two business days. The following shall be set forth in the report:

- (1) The date of the inspection and the name of the licensed field representative or operator making the inspection.
- (2) The name and address of the person or firm ordering the report.
- (3) The name and address of any person who is a party in interest.
- (4) The address or location of the property.
- (5) A general description of the building or premises inspected.
- (6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist.
- (7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias,

exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

"NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company."

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that

a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions.

In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and any corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, "control service agreement" means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an

estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

8516.5. Any registered company that makes an inspection of any property relating to the absence or presence of wood destroying pests or organisms on such property and makes a report of such inspection shall furnish a copy of the report either to the owner of the property or to the agent of the owner, within 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be furnished.

8517. Any work contract, billing, agreement, letter of work completed, or other correspondence or document expressing an opinion or making a statement relating to the presence or absence of wood destroying pests or organisms or nondecay fungi, shall refer to the inspection report required by Section 8516. These documents shall indicate specifically whether all of the recommended work as set forth in the inspection report was completed, or, if not, the document shall indicate specifically which recommendations were not completed.

8518. When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 working days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

The address of each property inspected or upon which work was completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 working days after completed work.

Every property upon which work is completed shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property upon which work was completed pursuant to subdivision (b) of Section 8516 or Section 8518 is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

The registered company shall retain for three years all original notices of work completed, work not completed, and activity forms.

Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

8519. Certification as used in this section means a written statement by the registered company attesting to the statement contained therein relating to the absence or presence of wood-destroying pests or organisms and, listing such recommendations, if any, which appear on an inspection report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-destroying pests or organisms found, or (2) repair of structurally weakened members caused by such infestation or infection, and which recommendations have not been completed at the time of certification.

Any registered company which makes an inspection report pursuant to Section 8516, shall, if requested by the person ordering the inspection report, prepare and deliver to that person or his or her designated agent, a certification, to provide:

(a) When the inspection report prepared pursuant to Section 8516 has disclosed no infestation or infection: "This is to certify that the above property was inspected on ____ (date) in accordance with the Structural Pest Control Act and rules and regulations adopted pursuant thereto, and that no evidence of active infestation or infection was found in the visible and accessible areas."

(b) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that all recommendations to remove that infestation or infection and to repair damage caused by that infestation or infection have been completed: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas."

(c) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that the registered company has not completed all recommendations to remove that infestation or infection or to repair damage caused by it: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas except as follows: ____ (describing infestations, infections, damage or evidence thereof, excepted)."

This certificate shall be accompanied by a copy of the inspection report prepared pursuant to Section 8516, and by a copy of the notice of work completed prepared pursuant to Section 8518, if any notice has been prepared at the time of the certification, or the certification may be endorsed on and made a part of that inspection report or notice of work completed.

8519.5. (a) After an inspection report has been prepared by a Branch 3 registered company pursuant to Section 8516, which discloses a wood destroying pest that can be eradicated by fumigation, and the fumigation has been duly performed by a Branch 1 registered company, the Branch 1 registered company, on a company document that identifies the licensee performing the fumigation and the name and address of the registered company, shall issue the following certification: "This is to certify that the property located at ____ (address) was fumigated on ____ (date) for the extermination of ____ (target pest)." This certification shall be issued to the person ordering the fumigation and to the registered company that prepared

the inspection report within five working days after completing the fumigation.

(1) Where a consumer has authorized a Branch 3 registered company to subcontract the fumigation to a Branch 1 registered company, a copy of the certification shall accompany any reinspection report, notice of work completed pursuant to Section 8518, or any certification issued by the Branch 3 company.

(2) Where the consumer has elected to contract directly with a Branch 1 registered company to perform a fumigation, the distribution of any documents pertinent to the fumigation shall be the responsibility of the Branch 1 registered company.

(b) In the event of a failed fumigation performed by a Branch 1 registered company that has contracted directly with the consumer, the Branch 1 registered company shall do all of the following:

(1) Verify the need for a refumigation.

(2) Maintain with the original inspection report, on a company document, all of the following:

(A) The name of the current owner of the structure fumigated, the address of the structure, and the date of the failed fumigation.

(B) An explanation of the need for refumigation.

(C) The proposed date for the refumigation.

(3) Within five working days after the completion of the refumigation, the Branch 1 registered company, on a company document, shall file with the current owner, and the Branch 3 registered company whose report was used for the original fumigation, information regarding the completion of the refumigation, a new certification, and any warranty or guarantee.

BUSINESS AND PROFESSIONS CODE

SECTION 8520-8536

8520. (a) There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members.

(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the board.

(d) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

8520.1. Protection of the public shall be the highest priority for the Structural Pest Control Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

8521. The board is composed of seven members, three of whom shall be, and shall have been for a period of not less than five years preceding the date of their appointment, operators licensed under this chapter actively engaged in the business of pest control and who are residents of this state, and four public members who shall not be licentiates of the board.

8522. Members of the board shall be appointed for a term of four years, subject to removal by the appointing power at his or her pleasure.

Vacancies shall be filled by the appointing power for the unexpired term.

Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint two of the public members and the two licensed members qualified as provided in Section 8521. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

The Governor shall appoint the member who is a licentiate of the board provided at the 1983 portion of the 1983-84 Regular Session of

the Legislature on or before January 15, 1984, and that member's term shall expire on January 15, 1988. Each appointment thereafter shall be for a four-year term expiring on January 15th.

8523. The board shall organize and elect a president who shall serve for one year.

The board shall meet annually during the month of October.

Special meetings may be called at any time by the president or by any three members of the board, upon notice for such time and in such manner as the board may provide.

8524. Four members of the board shall constitute a quorum for the transaction of business, for the performance of any duty, or the exercise of any power or authority of the board.

A vacancy on the board shall not impair the power of the remaining members to perform all duties and exercise all powers of the board providing the members remaining constitute a quorum.

8525. The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

The board shall also consult with the Director of Food and Agriculture when developing or adopting regulations that may affect the Department of Food and Agriculture or the county agricultural commissioner's responsibilities pursuant to Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

8526. Each member of the board shall receive a per diem and expenses as provided in Section 103.

8527. The board shall adopt and use a seal. The seal shall have the words "Structural Pest Control Board, State of California," and such other devices as the board may desire, engrossed thereon. The registrar shall have the care and custody of the seal.

8528. With the approval of the director, the board shall appoint a registrar, fix his or her compensation and prescribe his or her duties.

The registrar is the executive officer and secretary of the board.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

8529. The registrar, with the approval of the board and of the director, and subject to the State Civil Service Act, may appoint and

fix the compensation of such other assistants as may be necessary.

8530. The board, with the approval of the director, may establish the main office of the board, and branch offices of the board in any city of this State.

8531. The registrar shall keep a complete record of the board's actions, and shall maintain at the office of the board a complete index record of all applications for licenses and registrations issued, licenses renewed, and all revocations, cancellations, and suspensions of licenses and registrations.

8531.5. The board shall prepare minutes of its annual meeting and any special meetings, which shall be permanently maintained at the office of the registrar.

8532. Copies of all records and papers in the office of the board, certified by the registrar under the seal of the board shall be received in evidence in all courts of this State in all cases equally and with like effect as the originals of such papers and records.

8533. Whenever funds are available for the purpose, the registrar, at the discretion of the board, may publish, or cause to be published, a roster of the individuals licensed and companies registered under the provisions of this chapter. A copy of such roster may be furnished to registered companies and such state agencies as the registrar may select, at such intervals as he or she deems necessary. Copies of the roster may be sold at a price fixed by the board.

8534. Whenever funds are available for the purpose, the registrar, at the direction of the board, may publish and disseminate to individuals licensed and companies registered under this chapter and to public officials and other persons interested in the practice of pest control, such information relative to the administration and enforcement of this chapter as the board deems necessary to carry out its purposes.

8535. The registrar, and any member of the board, may administer oaths for the purpose of administering this chapter.

8536. No manufacturer, his agents or employees, nor any person who is a consultant of or connected with any manufacturer, shall be charged with the enforcement or execution of any of the provisions of this chapter.

BUSINESS AND PROFESSIONS CODE

SECTION 8538

8538. (a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION--PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized."

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately." (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions--the County Health Department (telephone number); for Application Information--the County Agricultural Commissioner (telephone number) and for Regulatory Information--the Structural Pest Control Board (telephone number and address)."

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice prescribed by subdivision (a) shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2 or Branch 3 registered company applications, the notice prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class mail.

(2) Posting in a conspicuous place on the real property.

(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of

the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

BUSINESS AND PROFESSIONS CODE

SECTION 8550-8556

8550. (a) It is unlawful for any individual to engage or offer to engage in the business or practice of structural pest control, as defined in Section 8505, unless he or she is licensed under this chapter.

(b) Notwithstanding subdivision (a), an unlicensed individual may solicit pest control work on behalf of a structural pest control company only if the company is registered pursuant to this chapter, and the unlicensed individual does not perform or offer to perform any act for which an operator, field representative, or applicator license is required pursuant to this chapter. As used in this subdivision, to "solicit pest control work" means to introduce consumers to a registered company and the services it provides, to distribute advertising literature, and to set appointments on behalf of a licensed operator or field representative.

(c) It is unlawful for an unlicensed individual, soliciting pest control work on behalf of a registered structural pest control company pursuant to subdivision (b), to perform or offer to perform any act for which an operator, field representative, or applicator license is required, including, but not limited to, performing or offering pest control evaluations or inspections, pest identification, making any claims of pest control safety or pest control efficacy, or to offer price quotes other than what is provided and printed on the company advertising or literature, or both.

(d) It is also unlawful for any unlicensed individual to offer any opinion, or to make any recommendations, concerning the need for structural pest control work in general, or in connection with a particular structure.

(e) It is unlawful for any firm, sole proprietorship, partnership, corporation, association, or other organization or combination thereof to engage or offer to engage in the practice of structural pest control, unless registered in accordance with Article 6 (commencing with Section 8610).

8551. It is unlawful for any unlicensed person to perform fumigation with dangerous or lethal fumigating chemicals in any public structure, including rooming houses, or households when used as public structures, hotels, apartment houses, or any part thereof.

8551.5. No unlicensed individual in the employ of a registered company shall apply any pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests, or organisms included in Branch 2 or Branch 3. However, an individual may, for 30 days from the date of hire, apply pesticides, rodenticides, or allied chemicals for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 30-day time period may not be extended.

8552. It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a company registered under this chapter.

8553. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, is guilty of a misdemeanor, and is punishable by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

8554. No individual engaged in the business or acting in the capacity of an operator may bring or maintain an action in any court of this state for the collection of compensation for the performance of any act or contract without alleging and proving that he or she was a duly licensed operator at all times during the performance of such act or contract.

No firm, partnership, corporation, association or other organization or combination thereof engaged in the practice of structural pest control may bring or maintain an action in any court of this state for the collection of compensation for the performance of any act or contract without alleging and proving that it was a duly registered company at all times during the performance of the act or contract.

Nothing herein shall prohibit the bringing or maintaining an action for the collection of compensation in the event of a suspension or revocation of a license or company registration by the board, if the order of suspension or revocation authorized the performance of the act or work, compensation for which the action is brought or maintained.

8555. This chapter does not apply to:

(a) Public utilities operating under the regulations of the Public Utilities Commission, except to work performed upon property of the utilities not subject to the jurisdiction of the Public Utilities Commission or work done by the utility for hire.

(b) Persons engaged only in agricultural pest control work under permit or license by the Department of Pesticide Regulation or a county agricultural commissioner.

(c) Pest control performed by persons upon property that they own, lease or rent, except that the persons shall be subject to the limitations imposed by Article 3 of this chapter.

(d) Governmental agencies, state, federal, city, or county officials, and their employees while officially engaged.

(e) Authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony. A professional engaging in research, study, investigation, or preparation for expert opinion or testimony on his or her own behalf shall comply with the requirements of this chapter.

(f) Certified architects and registered civil engineers, acting solely within their professional capacity, except that they shall be subject to the limitations imposed by Article 3 of this chapter.

(g) Persons engaged in the live capture and removal or exclusion of vertebrate pests, bees, or wasps from a structure without the use of pesticides, provided those persons maintain insurance coverage as described in Section 8692. "Vertebrate pests" include, but are not limited to, bats, raccoons, skunks, and squirrels, but do not include mice, rats, or pigeons. This section does not exempt a person from the provisions of Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

8556. (a) Licensed contractors acting in their capacity as such, may remove and replace any structure or portions of a structure damaged by wood destroying pests or organisms if that work is incidental to other work being performed on the structure involved or if that work has been identified by a structural pest control inspection report. Licensed contractors acting in their capacity as such may apply wood preservatives directly to end cuts and drill holes of pressure treated wood, and to foundation wood as required by building codes, as well as to fencing and decking, by brush, dip, or spray method and need not obtain a license under this chapter for performance of that work, provided a disclosure in the following form is submitted to the customer in writing: "The application of a wood preservative is intended to prevent the establishment and flourishing of organisms which can deteriorate wood. If you suspect pest infestation or infection, contact a registered structural pest control company prior to the application of a wood preservative."

These exemptions do not authorize the performance of any other acts defined in Section 8505.

(b) A licensed contractor may contract for the performance of any soil treatment pest control work to eliminate, exterminate, control, or prevent infestations or infections of pests or organisms in the ground beneath or adjacent to any existing building or structure or in or upon any site upon which any building or structure is to be constructed, but the actual performance of any such work must be done by a registered structural pest control company.

BUSINESS AND PROFESSIONS CODE

SECTION 8560-8571

8560. (a) Licenses issued to operators, field representatives, or applicators shall be limited to the branch or branches of pest control for which the applicant has qualified by application and examination.

For the purpose of delimiting the type and character of work authorized by the various branch licenses, the practice of pest control is classified into the following branches:

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. Termite. 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.

(b) The board may issue a license for a combination of two or more branches for which an applicant qualifies under the provisions of this chapter, and the combination license shall be considered one license.

(c) Unless otherwise authorized by the board, all written examinations shall be in ink in books supplied by the board. All examination papers shall be kept for a period of one year, upon the expiration of which these papers may be destroyed on order of the board. Each applicant for license as an operator or a field representative shall be designated by a number instead of by name, and the identity thereof shall not be disclosed until the examination papers are graded. No person shall be admitted to the examination room except members of the board, the examining personnel, and the applicants for license.

(d) The board shall make rules and regulations for the purpose of securing fair, impartial, and proper examinations.

(e) Licensees may be licensed in other branches upon complying with the requirements for qualification and by examination in those other branches. No failure of the licensee to pass examination in the other branch or branches shall have any effect on existing licenses.

(f) The examination shall be in each of the subjects specified in the branch or branches relating to the respective applications. A license according to the applications shall be granted to any applicant who shall make a general average of not less than 70 percent on each of the subjects of the branch or branches.

8561. Any individual 18 years of age or over may apply for a license as an operator.

The applicant shall possess the qualifications and be examined as hereinafter prescribed. The applicant shall apply to the board for the issuance of an operator's license within one year of passing the examination.

8562. To obtain an original operator's license, an applicant shall submit to the registrar an application in writing containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The name of the applicant.

(b) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches of pest control listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of that experience:

Branch 1	2 years
Branch 2	2 years
Branch 3	4 years

For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field.

(c) A designation of the branch or branches for which the application is made.

(d) The fees prescribed by this chapter.

(e) No operator's license shall be issued to an individual under 18 years of age.

(f) Effective January 1, 1993, an operator's license shall not be issued to an individual unless that individual has been licensed as a field representative in the branch in which the individual has applied for an operator's license for a period of at least one year, in the case of Branches 1 and 2, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of that training and experience.

8563. Any individual 18 years of age or over may apply for a license as field representative.

The applicant shall possess the qualifications and be examined as hereinafter prescribed. The applicant shall apply to the board for the issuance of a field representative's license within one year from the date the applicant passes the examination.

8564. To obtain an original field representative's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The length of time during which the applicant has engaged in any work relating to pest control.

(b) The name and place of business of the person who last employed him or her.

(c) The name of the person by whom the applicant is employed.

(d) The name of the registered company by which the applicant is to be employed.

(e) The fees prescribed by this chapter.

The board shall not accept any application for a field representative's license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had 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, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had 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 under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of that training and experience.

8564.5. (a) Any individual 18 years of age or older may apply for a license as applicator.

(b) The board shall ascertain by written examination that an applicant for a license as applicator in Branch 2 or Branch 3 has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

(c) Passage of the written examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3.

(d) The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering the examination, provided, however, that the fee shall not exceed fifteen dollars (\$15).

(e) Nothing in this chapter shall prohibit an applicator, authorized to apply any chemical substance in Branch 2 or Branch 3 before January 1, 1995, from acting as an applicator pursuant to that authorization. Upon expiration of the authorization, an applicator's license shall be required.

8564.6. To obtain an original applicator's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant requests the issuance of an applicator's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board and shall contain the following:

(a) The name of the registered company by which the applicant is to be employed.

(b) The fee prescribed by this chapter.

8565. The board shall ascertain by written examination that an applicant for a license as operator is qualified in the use and understanding of all of the following:

(a) The English language, including reading, writing, and spelling.

(b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(c) The labor laws of the state.

(d) The provisions of this chapter.

(e) Poisonous and other dangerous chemicals used in pest control, if the branch license or licenses for which he or she is applying, require that knowledge.

(f) The theory and practice of the branch or branches of pest control in which the applicant desires to be licensed.

(g) Other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control in the various branches, including an applicant's knowledge of the requirements regarding health effects and restrictions on applications, as set forth in Section 8538.

8565.5. (a) An applicant for a Branch 1 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.

(2) Pest identification and biology.

(3) Contract law.

(4) Rules and regulations.

(5) Business practices.

(6) Fumigation safety.

(b) An applicant for a Branch 2 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.

(2) Pest identification and biology.

(3) Contract law.

(4) Rules and regulations.

(5) Business practices.

(c) An applicant for a Branch 3 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.

(2) Pest identification and biology.

(3) Contract law.

(4) Rules and regulations.

(5) Business practices.

(6) Construction repair and preservation techniques.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. These courses may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

8565.6. An applicant for a Branch 2 license may elect to be certified in the handling, control, and techniques of removal of Africanized honey bees. The board shall develop a program to certify applicants in this specialty, or may approve a program for certification developed by the Pest Control Operators of California.

8566. The board shall ascertain by written examination that an applicant for a license as field representative is qualified in the use and understanding of the following:

(a) The safety laws of the state, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(b) The provisions of this chapter.

(c) Poisonous and other dangerous chemicals used in pest control, if the branch or branches of pest control for which he or she is applying, require that knowledge.

(d) The theory and practice of pest control in the branch or branches thereof for which the applicant desires to be licensed.

(e) Other state laws, safety or health measures, or practices as are reasonably within the scope of structural pest control in the various branches.

8566.5. An individual shall be permitted to hold only one license in the same branch at the same time.

If an individual who holds an operator's license requests to be licensed as a field representative or applicator, he or she may apply for a field representative's license or applicator's license and shall be granted the license without examination, if he or she surrenders his or her operator's license to the board, and provided that no disciplinary action has been initiated against the operator's license prior to the date of the individual's application for a field representative's license or applicator's license.

If an individual who holds a field representative's license requests to be licensed as an applicator, he or she may apply for an applicator's license and he or she shall be granted the license without examination, if he or she surrenders his or her field representative's license to the board, and if no disciplinary action has been initiated against the field representative's license prior to the date of the individual's application for an applicator's license.

8567. Should a field representative or applicator change his or her employment, or should an operator enter the employ of a registered company, or being already employed by a registered company change his or her employment, or being employed by a registered company leave that employment and enter the pest control business on his or her own behalf, he or she shall notify the registrar in writing, on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. Whereupon the registrar shall register the change in his or her records.

8568. After a hearing the board may deny a license or a company registration unless the applicant makes a showing satisfactory to the board that the applicant, if an individual, has not, or if the

applicant is a company applying for a company registration, that its manager and each of its officers, directors, employees, members and partners have not:

(a) Committed any act or crime constituting grounds for denial of licensure under Section 480.

(b) While unlicensed or not registered, knowingly committed or aided and abetted the commission of any act for which a license or company registration is required under this chapter.

(c) While acting as a partner, officer, managing employee, or qualifying manager of a firm, partnership, or corporation, had knowledge of and participated in the commission of any act resulting in the suspension or revocation of a license or company registration.

When a hearing is held under this section it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all of the powers granted therein.

8569. In addition to the partner or other individual designated as the qualifying manager for a registered company which is organized as a partnership, if any of the company's partners desire to actively engage in pest control on behalf of the partnership each shall be required to qualify for and to be licensed as an operator or field representative.

Nothing in this chapter shall prohibit any partner who is duly qualified and licensed in one or more of the branches of pest control designated in Section 8560, from representing the partnership in any other branch of pest control for which the partnership is registered, except that he or she may actively engage in pest control as an operator or field representative only in the branch for which he or she is qualified and licensed.

Upon being licensed as an operator or field representative, the other partner may engage in pest control only on behalf of the partnership of which he or she is a member, as long as he or she remains a partner thereof, but he or she may become associated with another partnership, or with a firm or corporation, in a capacity other than as a qualifying manager.

8570. In addition to the officer or other individual designated as the qualifying manager for a registered company which is organized as an association or corporation, if any of the company's other officers desire to actively engage in pest control in behalf of the association or corporation, each shall be required to qualify for and to be licensed as an operator or field representative.

Nothing in this chapter shall prohibit any officer of such corporation who is duly qualified and licensed in one or more of the branches of pest control designated in Section 8560, from representing the corporation in any other branch of pest control for which the corporation is registered, except that he or she may actively engage in pest control as an operator or field representative only in the branch for which he or she is qualified and licensed.

Upon being licensed as an operator or field representative, the officer may engage in pest control only on behalf of the association or corporation of which he or she is an officer, so long as he or she

remains an officer thereof, but he or she may become associated with another association or corporation, or with a firm or partnership, in a capacity other than as a qualifying manager.

8571. If the licensed operator who is designated as the qualifying manager for a registered company ceases for any reason whatsoever to be connected with the company, the company shall notify the registrar in writing within 10 days from such cessation. If the notice is given the registration shall remain in force for a reasonable length of time, to be determined by rules of the board, during which period the company must submit to the registrar in writing the name of another qualified, or to be qualified, qualifying manager to replace the qualifying manager who has ceased to be connected with it, and who shall qualify as such within the time allowed by rules and regulations of the board.

If the company fails to notify the registrar within the 10-day period, or fails to replace with a qualifying manager within the period fixed by the regulations of the board, at the end of the period the registration shall be ipso facto suspended. The registration shall be reinstated upon the filing of an affidavit, executed by a representative of the company, and filed with the registrar, to the effect that the qualifying manager who ceased to be connected with the company has been replaced by another operator who is authorized by this chapter to act in such capacity, and that such operator has not had his or her license suspended or revoked or that he or she has not been connected with a company which has had its registration suspended or revoked.

BUSINESS AND PROFESSIONS CODE

SECTION 8590-8593.1

8590. Except as otherwise provided herein, all operator's and field representative's licenses shall expire at 12 midnight on June 30 of every third year and all applicator's licenses shall expire at 12 midnight three years from the date of issue.

An individual licensed in more than one category may request that each license expire on the same date. The date requested shall be the date of the earliest expiration.

Every operator and every field representative shall pay a fee for the renewal of his or her license.

The board shall on or before the first day of June of each year mail to each operator and field representative whose license will expire in that year, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by June 30, a penalty will be added thereto.

In no case shall the penalty be waived.

Upon the receipt of the fee the board shall cause the renewal certificate to be issued.

8590.1. All applicator's licenses shall expire at 12 midnight three years from the date of issue. Every applicator shall pay a fee for the renewal of his or her license.

The board shall, on or before 60 days prior to the expiration of an applicator's license, mail to the applicator whose license will expire, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by the due date, a penalty will be added thereto. In no case shall the penalty be waived. Upon the receipt of the fee, the board shall cause the renewal certificate to be issued.

8591. If delinquency in the payment of the fee for renewal of any operator's or field representative's license extends beyond three months, the license may not be reinstated and the licensee may be required to obtain a new license in accordance with the provisions of Article 4 (commencing with Section 8560).

8592. Any operator, field representative, or applicator whose license is under suspension may make application for renewal of his or her license as provided in this article, but the board may not renew his or her license until the suspension has been lifted.

8593. The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by

the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section.

The institution may charge a reasonable fee for each course.

The board may charge a fee for the taking of an examination in each branch of pest control pursuant to this section in an amount sufficient to cover the cost of administering each examination, provided, however, that in no event shall the fee exceed fifty dollars (\$50) for each examination.

8593.1. The board shall require as a condition to the renewal of each applicator's license that the holder thereof submit proof satisfactory to the board that he or she has completed courses of continuing education in pesticide application and use approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may successfully apply for and pass an appropriate written applicator's examination for renewal of a license given by the board.

BUSINESS AND PROFESSIONS CODE

SECTION 8610-8619

8610. (a) Every company that engages in the practice of structural pest control, as a sole proprietorship, partnership, corporation, or other organization or any combination thereof, shall be registered with the Structural Pest Control Board. Each application for a company registration shall include the name of the company's owner if it is a sole proprietorship, the names of the partners, if it is a partnership, or the names of its officers and shareholders with 10 percent or more ownership interest, if it is a corporation, and the address of the company's principal office in this state.

(b) (1) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, whose license or registration is revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(2) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, who owns or has owned in the past more than a 10 percent interest in another sole proprietorship, partnership, corporation, or other organization that has its license or registration revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(c) Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish.

8611. Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative.

If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

8612. The licenses of operators and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was

issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains.

When registered company opens a branch office it shall notify the registrar in writing on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

8613. A registered company which changes the location of its principal office or any branch office or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance shall notify the registrar in writing of such change within 30 days thereafter. A fee for filing such changes shall be charged in accordance with Section 8674.

8616. The Director of Pesticide Regulation shall be designated by the board as its agent for the purposes of carrying out Section 8616.4. The board and the Department of Pesticide Regulation shall jointly develop a training program specifically relating to the various aspects of structural pest control and train all county agricultural commissioners and other personnel involved in structural pest control investigations and enforcement. No disciplinary action pursuant to Section 8617 may be taken by a county agricultural commissioner until training has been completed.

8616.4. The Director of Pesticide Regulation shall designate county agricultural commissioners as his or her representatives to carry out the provisions of Sections 8616.5, 8616.7, and 8617. The Director of Pesticide Regulation shall enter into a contract specifying their responsibilities and providing for reimbursement in accordance with Section 8505.17.

8616.5. (a) The county agricultural commissioner shall be the lead agency for inspections and routine investigations of pesticide use by the board licensees and registered companies, and of persons engaged in unlicensed structural pest control. When a matter is referred to the board for action, the board shall be the lead agency and may require that the commissioner assist in any investigation.

(b) The board and the Director of Pesticide Regulation shall jointly develop the list of the types of investigations to be conducted by the commissioner that may result in the suspension of a license or company registration, or the imposition of a fine, pursuant to Section 8617 and the list of the types of violations that the commissioner shall refer to the board for disciplinary action.

(c) As used in subdivision (a), the term "routine investigations" means all investigations of pesticide misuse by a board licensee or registered company except (1) investigation of misuse incidents that are referred to the board for disciplinary action or that are the basis for county actions to suspend or fine structural pest control licensees or registered companies in accordance with the lists promulgated pursuant to subdivision (b), or (2) any investigation

performed by the county agricultural commissioner that has been requested by the board and involves exclusively a violation of this code.

8616.6. The Director of Pesticide Regulation shall be notified by the board when it determines that persons acting pursuant to Sections 8616 and 8616.4 have not fulfilled their responsibilities under this chapter in a specific county or counties. The notice to the Director of Pesticide Regulation, which shall be dealt with in a timely manner, shall specifically list the actions which caused the filing of the notice. If the notice is not dealt with in a manner satisfactory to the board, the board may then suspend the activities of its agent pursuant to Section 8616.5, who is subject to the notice in the specific county or counties for which the notice was filed for a period not to exceed 60 days.

8616.7. When a county agricultural commissioner is acting, pursuant to Section 8616.4, only the commissioner may conduct inspections and routine investigations pursuant to Section 8616.5 and take disciplinary action pursuant to Section 8617. Except as otherwise provided, nothing in this section shall be construed as limiting or excluding the assistance provided to the board by the Division of Investigation under Sections 155 and 159.5 other than by board personnel.

8616.9. If an employee is found during an inspection or investigation not wearing personal protective equipment required by regulation, the commissioner shall have the option to use discretion in citing an employer only if evidence of all of the following is provided:

(a) The employer has a written training program, has provided training to the employee, and has maintained a record of training as required by regulation.

(b) The employer provided personal protective equipment required by regulation, the equipment was available at the site when the employee was handling the pesticide or pesticides, and the equipment was properly maintained and in good working order.

(c) The employer is in compliance with regulations relating to the workplace and supervision of employees.

(d) The employer has implemented and adheres to a written company policy of disciplinary action for employees who violate company policy or state or local laws or regulations.

(e) The employer has no history of repeated violations of this section.

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a licensee, registered company, or an unlicensed individual acting as a licensee, may levy an administrative fine up to one thousand dollars (\$1,000) or direct the licensee to attend and pass a board-approved course of instruction at a cost not to exceed the administrative fine, or both,

for each violation of this chapter, or Chapter 14.5, or any regulations adopted pursuant to these chapters, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to pesticides. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.

(b) A licensee who passes a course pursuant to this section shall not be awarded continuing education credit for that course.

(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of issuance of the written notice of proposed action.

A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address.

If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and a right to present evidence on his or her own behalf. If a hearing is not requested within the prescribed time, the commissioner may take the action proposed without a hearing.

(d) If the person upon whom the commissioner imposed a fine or suspension or required attendance at a board-approved course of instruction requested and appeared at a hearing before the commissioner, the person may appeal the commissioner's decision to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.

(e) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the commissioner's decision if no appeal is filed. If an appeal pursuant to Section 8662 is filed, the commissioner's order shall be stayed until 20 days after the Disciplinary Review Committee has ruled on the appeal.

(f) Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board.

Where a citation containing a fine is issued to a licensee and it is not contested or the time to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of that license. A license shall not be

renewed without payment of the renewal fee and fine.

Where a citation containing a fine is issued to a registered company and it is not contested or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the registered company any inspection stamps, notice of completion stamps, or pesticide use stamps until the assessed fine has been paid.

Where a citation containing the requirement that a licensee attend and pass a board-approved course of instruction is not contested or the time to appeal the citation has expired and the licensee has not attended and passed the required board-approved course of instruction, the licensee's license shall not be renewed without proof of attendance and passage of the required board-approved course of instruction.

(g) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

(h) Where the board is the party issuing the notice of proposed action to suspend or impose a fine pursuant to subdivision (a) of this section, "commissioner" as used in subdivisions (c), (d), and (e) includes the board's registrar.

8617.5. Regulations adopted pursuant to Section 11503 of the Food and Agricultural Code are not applicable to this chapter.

8618. Documents as specified by regulation must be maintained by all registered companies for three years.

8619. (a) An inspection tag shall be posted whenever an inspection for wood destroying pests or organisms is made.

(b) If the registered company completes any work with respect to wood destroying pests or organisms, it shall post a completion tag next to the inspection tag.

BUSINESS AND PROFESSIONS CODE

SECTION 8620-8666

8620. The board may upon its own motion, and shall upon verified complaint in writing of any person, investigate the actions of any individual acting as a licensee, or making application for a license.

After a hearing, the board may temporarily suspend or permanently revoke a license issued under this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action. In addition to its authority to suspend or revoke a license, the board may assess a civil penalty as follows:

(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts or omissions constituting grounds for disciplinary action, the proposed decision shall provide for the imposition of a suspension or for the revocation of the license. In this case, the board may impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil penalty. The licensee may express a preference for a form of discipline, but the board shall not be bound by any expression of preference.

If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing, the board may impose a civil penalty, in accordance with this section, in lieu of suspension.

If a proposed stipulation is rejected by the board, it is null and void and does not constitute an admission of any violation charged.

(b) The civil penalty shall not be more than five thousand dollars (\$5,000) for an actual suspension of one to 19 days.

(c) The civil penalty shall not be more than ten thousand dollars (\$10,000) for an actual suspension of 20 to 45 days.

(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty shall be paid before the effective date of the decision.

(e) If the civil penalty is not paid before the effective date of the suspension, the license shall be suspended until the penalty is paid or until the actual suspension is served.

No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section 8617, the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

In any order of suspension or revocation, the board may authorize the completion of any contract or work contracted for under terms and conditions set forth in the order.

8621. All complaints against licensees or registered companies shall be filed with the board within two years after the act or omission alleged as the ground for disciplinary action or, in the

case of fraud, within four years after commission of the fraudulent act or omission. The board shall file any accusation within one year after the complaint has been filed with the board, except that with respect to an accusation alleging a violation of Section 8637, the accusation may be filed within two years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section.

8622. When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

8624. If the board suspends or revokes an operator's license and one or more branch offices are registered under the name of the operator, the suspension or revocation may be applied to each branch office.

If the operator is the qualifying manager, a partner, responsible officer, or owner of a registered structural pest control company, the suspension or revocation may be applied to the company registration.

The performance by any partnership, corporation, firm, association, or registered company of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who, at the time the act or omission occurred, was the qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm, association, or registered company whether or not he or she had knowledge of, or participated in, the prohibited act or omission.

8625. The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or

company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

8632. The suspension or revocation of a license or a company registration as in this chapter provided may also be ordered in any action otherwise proper in any court involving the licensee's or a company's performance of a legal obligation as a licensee or registrant under this chapter.

8635. Departure from, or disregard of, plans or specifications in the performance of structural pest control work in any material respect, without consent of the owner or his duly authorized representative, is a ground for disciplinary action.

8636. Disregard and violation of the buildings laws of the state, or of any of its political subdivisions, or of the safety laws, labor laws, health laws, or compensation insurance laws of the state relating to the practice of structural pest control is a ground for disciplinary action.

8637. Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action.

8638. Failure on the part of a registered company to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action.

8639. Aiding or abetting an unlicensed individual or unregistered company to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed individual or unregistered company, or allowing one's license or company registration to be used by an unlicensed individual or unregistered company, or acting as agent or partner or associate, or otherwise, of an unlicensed individual or unregistered company to evade the provisions of this chapter is a ground for disciplinary action.

8640. Payment, or the offer to pay, by any licensee or registered company to any party to a real estate transaction of any commission, bonus, rebate, or other thing of value as compensation or inducement for the referral to such licensee or registered company of pest control work arising out of such transaction is a ground for disciplinary action.

8641. Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a

report of inspection without the making of a bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action.

8642. The commission of any grossly negligent or fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a registered company is a ground for disciplinary action.

8643. The negligent handling or use of any poisonous exterminating agent is a ground for disciplinary action.

8644. Fraud or misrepresentation, after inspection, by any licensee or registered company engaged in pest control work of any infestation or infection of wood-destroying pests or organisms found in property or structures, or respecting any conditions of the structure that would ordinarily subject structures to attack by wood-destroying pests or organisms, whether or not a report was made pursuant to Sections 8516 and 8517 of this code, is a ground for disciplinary action.

8645. Impersonation of any state, county or city inspector or official is a ground for disciplinary action.

8646. Disregard and violation of pesticide use and application, structural pest control device, fumigation, or extermination laws of the state or of any of its political subdivisions, or regulations adopted pursuant to those laws, is a ground for disciplinary action.

8646.5. A notice of noncompliance shall be issued to a licensee or registered company whenever an authorized representative of the board finds that a pesticide application, fumigation or extermination procedure being performed by the licensee or registered company is not in compliance with applicable laws, rules, or regulations. Upon receiving such notice, the licensee or registered company shall discontinue such pest control work until the procedure is brought into compliance. Failure to discontinue after receiving a notice of noncompliance is a ground for disciplinary action.

8647. Failure to comply in the sale or use of insecticides with the provisions of Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code is a ground for disciplinary action.

8648. Authorizing, directing, conniving at or aiding in the publication, advertisement, distribution or circulation of any material by false statement or representation concerning a registered company's business is a ground for disciplinary action.

8649. Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

8650. Acting in the capacity of a licensee or registered company under any of the licenses or registrations issued hereunder except:

(a) In the name of the licensee or registered company as set forth upon the license or registration, or

(b) At the address and location or place or places of business as licensed or registered or as later changed as provided in this chapter is a ground for disciplinary action.

8651. The performing or soliciting of structural pest control work, the inspecting for structural or household pests, or the applying of any pesticide, chemical, or allied substance for the purpose of eliminating, exterminating, controlling, or preventing structural pests in branches of pest control other than those for which the operator, field representative, or applicator is licensed or the company is registered is a ground for disciplinary action.

8652. Failure of a registered company to make and keep all inspection reports, field notes, contracts, documents, notices of work completed, and records, other than financial records, for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. These records shall be made available to the executive officer of the board or his or her duly authorized representative during business hours.

8653. The failure of any registered company or agent or officer thereof, to pay any moneys due for any materials or services rendered in connection with its operations as a registered pest control company, when it has the ability to pay or when it has received sufficient funds therefor as payment for the particular pest control work, project, or operation for which the services or materials were rendered or purchased, is a ground for disciplinary action, as is the false denial of any such indebtedness or of the validity of the claim thereof with intent to secure for itself, or other person any discount upon such indebtedness or with intent to hinder, delay, or defraud the person to whom such indebtedness is due.

8654. Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary

action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

8655. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

8656. In addition to the remedies provided for in Section 125.9, when the licensee who is a registered company has failed to pay the fine assessed pursuant to a citation within 30 days of the date of assessment, unless the citation is being appealed, the board shall not sell to the registered company any pesticide use stamps until the assessed fine has been paid.

8657. The appointment of a receiver of the property of a licensee or registered company as provided in Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure, or the making of an assignment for the benefit of creditors, constitutes a cause for disciplinary action.

If a license or registration is suspended or revoked upon the grounds set forth in this section, the registrar in his or her discretion may renew or reissue such license upon the condition that each contract undertaken by the licensee or registered company be separately covered by a bond or bonds conditioned upon the performance of, and the payment of labor and material required by, the contract.

8658. The board may bring an action to enjoin the violation of any provision of this chapter in any superior court in and for the county in which the violation has occurred. Any such action shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the board shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable

damage or loss. The action shall be brought in the name of the people of the State of California.

8660. A disciplinary review committee consisting of three members shall be established for the purposes of reviewing appeals of orders issued pursuant to Section 8617. The committee shall be made up of one member representing the Director of Food and Agriculture and one member representing the board. The third member shall be a licensed pest control operator actively involved in the business of pest control and shall be selected by agreement of the other members.

8662. (a) Whenever the right of a structural pest control licensee or registered company to make pesticide applications is to be suspended or the licensee, registered company, or unlicensed individual is to be fined pursuant to Section 8617, and if the person upon whom the commissioner imposed a fine or suspension requested and appeared at a hearing before the commissioner in accordance with Section 8617, the party to be suspended or fined may appeal to the Disciplinary Review Committee by filing a written appeal with the committee within 10 days of receipt of the fine or suspension order.

(b) The following procedures shall apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her or its authorized agent, state the grounds for the appeal, and include a copy of the commissioner's decision. The appellant shall file a copy of the appeal with the commissioner at the same time it is filed with the committee.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter, or at a later time prescribed by the committee or its designee, present the record of the hearing, including written evidence that was submitted at the hearing and written argument to the committee stating the grounds for affirming, modifying, or reversing the commissioner's decision.

(3) The committee or its designee may grant oral argument upon application made at the time written arguments are filed. If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given each party at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the commissioner, and the committee.

(4) At any time written evidence is submitted to the committee, a copy shall be immediately provided to the other party.

(5) The committee shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2) that the committee may have received. If the committee finds substantial evidence in the record to support the commissioner's decision, the committee shall affirm the decision.

(6) The committee shall render its written decision within 45 days of the date of appeal or within 15 days from the date of oral arguments. If the committee does not reach a decision in the time required in this subdivision, the order issued pursuant to Section 8617 shall be null and void.

(7) On an appeal pursuant to this section, the committee may sustain, modify by reducing the time of suspension or the amount of the fine levied, or reverse the decision. A copy of the committee's

decision shall be delivered or mailed to each party.

(8) Review of the decision of the committee may be sought by the licensee, registered company, or unlicensed individual pursuant to Section 1094.5 of the Code of Civil Procedure.

8663. (a) This section only applies to work conducted under a Branch 1 license.

(b) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may levy a fine of up to one thousand dollars (\$1,000) against a registered company acting as a prime contractor for any major violation committed by any licensee with whom the prime contractor has subcontracted if, before that violation occurred, the prime contractor had been notified by certified mail, return receipt requested, of more than two major violations committed by the subcontractor within 12 consecutive months.

Fines collected pursuant to this section shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund.

(c) For purposes of this section, "major violation" means a violation of any of the following provisions of this code or of the California Code of Regulations that poses a serious hazard to humans:

(1) A violation of subdivision (a) or (b) of Section 1970.4 of Title 16 of, or Section 6454 of Title 3 of, the California Code of Regulations, or a violation of Section 8505.5.

(2) Any violation of the structural pest control law that results in a serious injury to any person.

(3) A violation of Section 8505.2 or 8505.3, relating to direct and personal supervision.

(4) A violation of Section 8505.7, relating to vacating and securing structures.

(5) A violation of subdivision (a) of Section 6780 of Title 3 of the California Code of Regulations.

(6) A violation of Section 6454 of Title 3 of the California Code of Regulations.

(7) A violation of Section 8505.12, relating to warning agents.

(8) A violation of Section 8505.9 or 8505.10, relating to warning signs.

(d) A copy of a notice of violation issued for any violation committed by a subcontractor shall be sent by certified mail to the prime contractor by the issuing authority within 15 days from the date the violation was committed.

(e) Notwithstanding subdivision (b), a prime contractor may be fined for a subcontractor's first violation for failing to have a signed factsheet on the premises being treated, or if the subcontractor fails to provide advance notice of a treatment to the occupants of the premises being treated.

8664. (a) This section only applies to work conducted under a Branch 1 license.

(b) Before a fine can be levied pursuant to Section 8663, the prime contractor shall be provided notice of the nature of the violation and shall be given an opportunity to be heard, including the right to review the commissioner's evidence and a right to present evidence on his or her own behalf.

(c) The prime contractor may appeal the fine to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.

(d) If a fine is ordered, it may not take effect until 20 days after the date of the decision provided that no appeal is filed. If an appeal is filed pursuant to Section 8662, the order shall be stayed until 20 days after the committee has ruled on the appeal.

(e) Once final action is taken pursuant to this section, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the fine order issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

8665. The fact that an applicator is licensed shall not affect any liability or responsibility for disciplinary action of any operator, field representative, or registered company that employs or supervises an applicator.

8666. It shall be unlawful for any licensee under this chapter to recommend or to perform any pest control corrective work under any contract or agreement that the licensee knows or has reason to know is in excess of that required to eliminate the condition for which the licensee was employed.

A violation of this section is a public offense and is punishable upon the first conviction by imprisonment in the county jail for not more than six months, or by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.

BUSINESS AND PROFESSIONS CODE

SECTION 8690-8695

8690. The board shall not issue any company registration under this chapter unless the applicant shall have filed with the board on a form prescribed by the board written evidence of an insurance policy approved by the board or a bond as specified in this article, being in effect at the time of the issuance of the company registration. This written evidence shall include a provision that the board shall be given a 10-day notice by the insurance company or bonding company should the policy or bond be canceled or changed during the policy or bond period in a manner as to affect the written evidence.

8691. No registered company shall engage in any of the practices for which it is required to be registered by this chapter unless it maintains such insurance policy or bond as specified in this article.

8692. An "insurance policy" as used in this article means a contract of liability insurance issued by an insurance company authorized to transact business in this state or one issued by a nonadmitted carrier whose activities in this state are controlled by the Surplus Line Association, which insures the policyholder against loss from legal liability for damages on property upon which work is being performed or has been completed, including third party losses, as a result of an accident or occurrence due to participation in any control, prevention, or repair activities which require a license under this chapter. The insurance policy shall provide minimum limits of twenty-five thousand dollars (\$25,000) for any one loss due to bodily injury, sickness or disease, including death at any time resulting therefrom, sustained by any person or persons, and twenty-five thousand dollars (\$25,000) minimum for any one loss due to injury or destruction of property, including the loss of use thereof.

This section shall not be construed to require errors and omissions insurance for all activities relating to or during inspections, inspection reports, recommendations, estimates, and bids, whether oral or written.

8693. In lieu of the insurance policy specified in this article an applicant for a company registration may file with the board a bond executed by an admitted surety insurer in the penalty of twenty-five thousand dollars (\$25,000) with the State of California as obligee.

8695. The violation of any provision of this article is a misdemeanor and shall be grounds for the suspension or revocation by the board of the operator's license of the owner or qualifying manager or managers of the registered company and of the company registration.

BUSINESS AND PROFESSIONS CODE

SECTION 8697-8697.5

8697. Each company registered under the provisions of this chapter shall maintain a bond executed by an admitted surety insurer in the amount of four thousand dollars (\$4,000).

8697.2. The bonds required by this article shall be in favor of the State of California for the benefit of any person who, after entering into a contract with a registered company, is damaged by fraud or dishonesty of the registered company in the performance of the contract, or any person who is damaged as a result of a violation of this chapter by the registered company.

8697.3. If, after a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, a license or company registration is suspended or revoked upon the grounds set forth in Article 7 (commencing with Section 8620) of this chapter, the registrar shall require the applicant, licensee, or registered company, as a condition to the issuance, reissuance, or restoration of the license or company registration, to file a surety bond in the sum to be determined by the registrar based upon the seriousness of the violation, but which sum shall not be less than one thousand dollars (\$1,000) nor more than eight thousand dollars (\$8,000).

The bond required by this section shall be in addition to the bond required by Section 8697 of this article.

Each applicant, licensee, or registered company required to maintain a bond of the type provided in this section shall post such bond with the registrar for a period of at least two years and during such additional time as there may be unsatisfied claims outstanding against the same.

8697.4. Upon failure of a licensee or registered company to maintain in full force and effect any bond required by this article the registrar shall issue an order suspending or revoking the license or company registration, which shall not be reinstated until a new bond is filed.

8697.5. Such bonds as are required by this article shall be in addition to any bond which may be maintained pursuant to the provisions of Article 9 (commencing with Section 8690) of this chapter.

BUSINESS AND PROFESSIONS CODE

SECTION 8698-8698.6

8698. The Director of the Department of Pesticide Regulation shall be designated by the board as its agent for the purposes of carrying out Section 8698.1. The Los Angeles County Agricultural Commissioner or the Orange County Agricultural Commissioner, or both, may contract with the director to perform increased structural fumigation, inspection, and enforcement activities. These activities shall be funded by the moneys collected pursuant to this chapter.

8698.1. (a) If the county has contracted pursuant to Section 8698, any person who performs a structural fumigation in Los Angeles County or Orange County shall pay to the county agricultural commissioner a fee of five dollars (\$5) for each treatment conducted at a specific building or structure.

(b) The fees shall be submitted by the 10th day of the month following the month in which the treatment was performed. The fees shall be accompanied by a copy of a monthly pesticide use report showing the addresses, including the department number if applicable, of all structural fumigations. The report shall be in a form required by the director, identify the name and address of the person or company performing the fumigation, and include any other information requested by the director.

8698.2. The Director of the Department of Pesticide Regulation may adopt regulations to carry out the provisions of this chapter. In adopting regulations the director shall, in consultation with the Structural Pest Control Board, review recommendations from any individual, including any licensed pest control operator regarding matters which pertain to the use of structural fumigation to control pests. The director shall respond within a reasonable period of time to recommendations which the director deems are practicable and in the interest of the structural pest control industry and the public. The response of the director shall be in writing and shall contain statements regarding reasons for acceptance or rejection of a recommendation.

8698.3. (a) The Director of the Department of Pesticide Regulation may levy a civil penalty against a person violating this chapter, including any regulation adopted pursuant to this chapter.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard, including the right to review the director's evidence and a right to present evidence on his or her own behalf.

(c) Review of the decision of the director may be sought by the person against whom the penalty was levied, within 30 days of receiving notice of the decision, pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After the exhaustion of the review procedure provided in this

section, the director, or his or her representative, may file a certified copy of a final decision of the director that directs the payment of a civil penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

8698.5. Any funds collected pursuant to this chapter shall be paid to the county and used for the sole purposes of funding enforcement and training activities directly related to the structural fumigation project created pursuant to Section 8698.

8698.6. This chapter shall remain in effect only until July 1, 2006, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 2006, deletes or extends that date.