

§1919. Research Advisory Panel., continued

NOTE: Authority cited: Section 8525, Business and Professions Code.
Reference: Section 8674, Business and Professions Code.

HISTORY

1. New section filed 12-26-90; operative 1-25-91 (Register 91, No. 6).
2. Amendment filed 3-13-96; operative 4-12-96 (Register 96, No. 11).

§1920. Citations and Fines.**(a) Authority to Issue Citations and Fines:**

(1) The Registrar or Deputy Registrar of the Board is authorized to issue citations which may contain an order of abatement or an administrative fine ("fine") for violations of the statutes contained in the Structural Pest Control Act (commencing with Business and Professions Code Section 8500) or the regulations adopted by the Board.

(2) Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute(s) or regulation(s) alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

(b) Citation; Assessment of Fine:

(1) Citations may be issued without the assessment of a fine. The amount of any fine to be levied by the Registrar or Deputy Registrar shall be no more than \$5000. For the issuance of a citation that includes an administrative fine in excess of \$2,500, the Registrar or Deputy Registrar shall determine that at least one of the following circumstances apply:

(A) the citation involves a violation that has an immediate relationship to the health and safety of another person;

(B) the cited person has a history of two or more prior citations of the same or similar violations

(C) the citation involves multiple violations of the Act or these regulations that demonstrate a willful disregard of the law; or,

(D) the citation involves a violation or violations perpetrated against a senior citizen or person with disability.

(2) In determining whether a citation shall contain an order of abatement or a fine and if a fine is to be imposed, the Registrar or Deputy Registrar shall consider the following factors:

(A) Gravity of the violation

(B) History of previous violations of the same or similar nature.

(C) The good or bad faith exhibited by the cited person.

(D) Evidence that the violation was willful.

(E) The extent to which the cited person cooperated with the Board's investigation.

(F) The extent to which the cited person has mitigated or attempted to mitigate any damage caused by his or her violation.

(G) Such other factors as the Registrar or Deputy Registrar considers relevant

§1920. Citations and Fines., continued**(c) Citations for Unlicensed Practice:**

The Registrar or Deputy Registrar of the Board is authorized to issue citations which may contain order of abatement or a fine against persons who are performing or who have performed services for which a structural pest control license is required under the Structural Pest Control Act. The citation issued under this section shall be separate from and in addition to any other civil or criminal remedies.

(d) Compliance with Orders of Abatement:

When a citation is not contested or if the citation is appealed and the person cited does not prevail, failure to comply with the order of abatement or to pay the fine in the citation within the time allowed by a licensee may result in disciplinary action being taken by the Board against the person cited, or where the cited person is unlicensed in appropriate judicial relief being taken against the person cited.

(e) Contest of Citations:

(1) In addition to requesting a hearing provided for in subdivision (b)(4) of section 125.9 of the code, the person cited may, within ten (10) days after service or receipt of the citation, notify the Registrar or Deputy Registrar, as designated, in writing of his or her request for an informal conference with the designated Registrar or Deputy Registrar. The informal conference shall include at least one, but no more than two, industry members of the Board, as designated by the Registrar.

(2) The informal conference shall be held within 60 days from the receipt of the request of the person cited. At the conclusion of the informal conference, the Registrar or Deputy Registrar may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The decision shall state in writing the reasons for the action and shall be served or mailed to the person within ten (10) days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(3) The person cited does not waive his or her request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by the Registrar or Deputy Registrar. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days in accordance with subdivision (b)(4) of section 125.9 of the code.

NOTE: Authority cited: Section 8525, Business and Professions Code.

Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 8-13-98; operative 9-12-98 (Register 98, No. 33).
2. New section heading filed 7-17-2003; operative 8-16-2003. Submitted to OAL for printing only (Register 2003, No. 29).
3. Change without regulatory effect amending subsections (b)(5) and (e)(3) filed 9-4-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 36).

§1920. Citations and Fines., continued

HISTORY, continued

4. Change without regulatory effect amending subsection (b) filed 12-18-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 51).
5. Redesignation and amendment of portions of subsection (b) as new subsections (b)(1) and (b) (2), new subsections (b)(1)(A) – (D) and redesignation of former subsections (b)(1) – (7) as new subsections (b)(2)(A) – (G) filed 12-30-2005; operative 1-29-2006 (Register 2005, No. 52).

§1922. Civil Penalty Actions by Commissioners.

(a) When taking civil penalty action pursuant to section 8617 of the Business and Professions Code, county agricultural commissioners shall use the provisions of this section to determine the violation class and the fine amount.

(1) For purposes of this section, violation classes shall be designated as “serious,” “moderate,” and “minor.”

(A) “Serious”: Violations that are repeat violations of those in subparagraph (B) or violations which created an actual health or environmental hazard. The fine range for serious violations is \$401-\$1,000.

(B) “Moderate”: Violations that are repeat violations of those in subparagraph (C) or violations which pose a reasonable possibility of creating a health or environmental effect. The fine range for moderate violations is \$151-\$400.

(C) “Minor”: Violations that did not create an actual health or environmental effect or did not pose a reasonable possibility of creating a health or environmental effect. The fine range for minor violations is \$50-\$150.

NOTE: Authority cited: Section 8525, Business and Professions Code.

Reference: Section 8617, Business and Professions Code.

HISTORY

1. New section filed 5-14-98; operative 6-13-98 (Register 98, No. 20).

§1922.3. Course Requirements by County Agricultural Commissioners.

(a) When, pursuant to Business and Professions Code section 8617, a lawful order is made by a county agricultural commissioner to direct a licensee to take and pass a board approved course of instruction, the licensee prior to taking the course shall submit the name of the course and documentation regarding its content to the same agricultural commissioner for review and approval.

(b) The submittal for approval shall be made within twenty (20) days of the order. The county agricultural commissioner shall make a decision and respond to the licensee within twenty (20) days.

§1922.3. Course Requirements by County Agricultural Commissioners., continued

(c) The course of instruction shall have content that directly addresses applicable pesticide use laws, regulations and the practice of structural pest control relating to the violations committed. After completion of the approved course, the licensee shall take and pass an examination provided by the course provider that directly relates to the course content. A passing score for the examinations shall reflect that the licensee correctly answered at least seventy percent (70%) of the examination questions.

(d) After passing the examination, the licensee shall obtain a certification of course completion from the course provider. As proof of compliance, the licensee shall submit the certificate to the county agricultural commissioner who issued the Notice of Proposed Action within twenty (20) days of course completion.

(e) The licensee must comply with the order within ninety (90) days. The commissioner shall have the discretion to extend this date up to one hundred eighty (180) days after issuance of the Notice of Proposed Action.

NOTE: Authority cited: Section 8525, Business and Professions Code.

Reference: Section 8616.4 8617, Business and Professions Code.

HISTORY

1. New section filed 7-6-2005; operative 8-5-2005 (Register 2005, No. 27).

2. Change without regulatory effect amending subsection (d) filed 10-2-2005 pursuant to section 100, Title 1, California Code of Regulations (Register 2005, No.42)