

Appendix I

Structural Pest Control

Overview Structural Pest Control is unique in many aspects, and for personnel who are more accustomed to enforcing requirements on growers and DPR licensees, can pose some challenges. This Appendix provides an overview of the agencies involved in enforcing structural requirements, and other requirements specific to structural pest control that are important for enforcement personnel.

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Appendix I.1

Overview of the Structural Pest Control Board

Overview of regulatory agencies and their roles

The Structural Pest Control Board (SPCB) is a Board within the Department of Consumer Affairs (DCA), under the Business, Consumer Services & Housing Agency. The SPCB's mission is to protect the general welfare of Californians and the environment by regulating the structural pest management profession. The SPCB licenses individuals and registers companies to perform structural pest control under the B&PC. SPCB staff also investigate consumer complaints that are not within the scope of CAC pesticide use related investigations.

DPR is a Department under the California Environmental Protection Agency. DPR licenses or certifies other individuals and businesses conducting pest control under the FAC. DPR registers pesticides (including spray adjuvants) before they are sold and used in California (excluding pesticides exempt from registration). DPR also licenses certain businesses (dealers and brokers) selling pesticides in the State.

CACs enforce pesticide use requirements in their county, under the direction and supervision of DPR. Specific to structural pest control, CACs register companies to work in their county, conduct use monitoring and records inspections, and conduct pesticide misuse investigations.

For more information on SPCB, DPR, and CAC licensing or certification activities, see Compendium Volume 1 Chapter 3.

The Act

In 1935, the Structural Pest Control Act (Assembly Bill 2382) created the Board. The intended purpose for the Act was to “regulate the practice of structural pest control; to create the Structural Pest Control Board; to provide for the registration and licensing of persons engaged in such practice, and for the protection of the public in the practice of structural pest control.”

The Board

Section 8520 provides for the Board. This law generally sunsets about every four years. Prior to sunset, the Board provides a report to the Legislature on their accomplishments during the current period and goals during the next period.

The Board is composed of seven members: four are public members who are not licensees, and three are Operators licensed by the SPCB for at least five years. Board members may serve up to two four-year consecutive terms.

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Overview of the Structural Pest Control Board, Continued

The Board, (continued)

The Board President is annually elected in October. The Board Registrar is the executive officer and secretary of the Board. The Board President is considered the supervisor of the Registrar. The Registrar manages and supervises SPCB staff.

Consumer protection is the primary mission of the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever there is a conflict with other interests, consumer protection is paramount.

Note: In this Appendix, when used without modification “Board” refers to the appointed seven-member Board.

Rulemaking

The Board, subject to approval by the Director of the Department of Consumer Affairs (DCA), may vote to adopt, amend, or repeal regulations relating to structural pest control in Title 16, California Code of Regulations.

The Board President will sometimes form a committee to work on a particular issue or code topic. Industry members and regulatory representatives may be on a committee, depending upon the issue. The committee will develop and submit their recommendations to SPCB staff. SPCB and DCA staff will usually review the recommendation prior to Board consideration. The Board may then move to direct the Registrar to open a rulemaking docket consistent with the Government Code. As the Board only meets a few times per year, this process can take up to several years.

SPCB staff

The staff of the SPCB are divided up into four units:

- The Administrative Unit functions include the various orders of correction or restitution.
 - The Wood Destroying Organism (WDO) Unit maintains the database and fee processing for all the Branch 3 property inspections and related work. Branch 3 companies must pay a filing fee with the SPCB for every WDO inspection completed.
 - The Licensing Unit processes company registrations and license applications. This unit maintains the license database, oversees examinations, conducts consumer satisfaction surveys, and approves classes for continuing education.
 - The Enforcement Unit mediates and investigates complaints. If the case may involve denial, suspension, or revocation of a license, they refer the case to the Registrar who works with the Attorney General.
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Overview of the Structural Pest Control Board, Continued

SPCB staff,
(continued)

Enforcement Unit staff may refer cases for civil and criminal penalties to district attorneys for certain violations by licensees and unlicensed practitioners. Enforcement Unit staff review and audit records of companies and licensees for compliance, and monitor companies and licensees on probation to ensure whatever terms were required are being followed. Enforcement Unit staff assist DPR in the mandated Structural Regulatory Training for CAC staff on the statewide structural enforcement program.

**Board
Specialist role**

Board Specialists must have a SPCB license in any Branch AND maintain their license throughout their time as Specialists.

Miscellaneous Board Specialist duties include:

- Independent routine inspections of PCB records
- Investigate complaints and other undercover investigations for unlicensed activities, fraud etc.
- Audit continuing education courses
- Conduct office/compliance inspections
- Assist in review and revisions to update licensee examinations
- Serve on Board-appointed committees
- Serve as expert witnesses on industry standards
- Are seen as subject matter experts

Although CAC staff may consult with a Board Specialist from time to time, they do not directly oversee the CAC program.

For high profile incidents like a structural fumigation death, the Board Specialist will separately investigate the business' practices the CAC does not directly oversee to determine if there were additional violations. Board Specialists can assist the CAC in obtaining evidence if needed.

Appendix I.2 Designated Agency Roles

Roles	<p>Laws amended or initially adopted in Assembly Bill (AB) 294 (Statutes of 1984, Chapter 766) prescribe the roles of the SPCB, DPR, and CACs in relation to enforcing pesticide laws and regulations on structural pest control licensees, registered companies, and individuals conducting unlicensed structural pest control.</p> <p>FAC section 15201 declared it is the joint responsibility of DPR, each CAC (under the direction and supervision of DPR), and the SPCB to regulate the activities of structural pest control licensees. DPR has primary responsibility for enforcing pesticide laws and regulations.</p> <p>Under B&PC section 8525(b), the SPCB will consult with DPR when developing or adopting regulations that may affect DPR or CAC responsibilities under FAC Division 7 (e.g., pesticide use and worker safety requirements, company registration with the CAC, etc.). Similarly, FAC section 15203 requires DPR to consult with the SPCB when developing regulations which pertain to structural pest control.</p>
Designations	<p>Assembly Bill 294 also set out the initial process for designating the roles of the involved agencies. As amended, B&PC section 8616 provides DPR shall be designated the SPCB's agent to contract with CACs under section 8616.4 to carry out the provisions of sections 8616.5 and 8616.7 (inspections and routine investigations of licensed and unlicensed structural pest control in the county) and 8617 (civil penalty actions). The contract specifies CAC responsibilities and provide for reimbursement in accordance with section 8505.17.</p>
Joint training responsibilities	<p>Under B&PC section 8616, DPR and the SPCB jointly develop a structural training program to train all CACs and other personnel involved in structural pest control investigations and enforcement. A CAC cannot take a civil penalty action pursuant to section 8617 until this Structural Regulatory Training has been completed.</p>
CAC structural inspections and investigations	<p>B&PC 8616.5(a) provides the CAC shall be the lead for inspections and routine investigations of pesticide use (and misuse) by SPCB licensees and registered companies, and persons engaged in unlicensed structural pest control.</p>

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Designated Agency Roles, Continued

CAC structural inspections and investigations,
(continued)

As defined in B&PC 8616.5(c), “routine investigations” means all investigations of pesticide misuse by a SPCB licensee or registered company except:

1. investigation of misuse incidents that are referred to the SPCB for disciplinary action or that are the basis for county actions to suspend or fine structural pest control licensees or registered companies, or
 2. any investigation performed by the county agricultural commissioner that has been requested by the SPCB and involves exclusively B&PC violations.
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Education and Enforcement Fund

The SPCB collects money from structural civil penalties and a portion of the Monthly Summary Pesticide Use Report Structural Stamp fee in the Structural Pest Control Education & Enforcement Fund. The Fund is used to:

- Conduct the Structural Regulatory Training required by section 8616;
- Reimburse DPR for Structural Civil Penalties issued by CACs (review Appendix I.5 or the most recent Enforcement Letter on how CACs can request expense reimbursement from DPR), and
- Cover reasonable expenses of the Disciplinary Review Committee.

There is no reimbursement from this fund for CAC inspections and routine investigations that are reimbursed under DPR’s program.

Appendix I.3

Structural Fumigation Enforcement Program

Background Fumigation of structures with lethal gases, such as sulfuryl fluoride, requires a Branch 1 license from the SPCB.

A majority of these fumigations are performed in certain California counties.

Chapter 14.5 of Division 3 of the B&PC covers the Structural Fumigation Enforcement Program (SFEP).

Purpose Through a fee for each fumigation conducted (currently set at \$8) that is paid to the participating CAC, the program provides additional industry funding for increased Branch 1 inspections and enforcement to the listed counties. The SFEP fee is in addition to what they are paid by DPR for routine structural use enforcement activities, with the expectation the CAC receiving the fee will conduct increased Branch 1 inspection and enforcement activities.

About the program In 1993, this program started as a two-year pilot project with the Los Angeles CAC. Two years later, Orange CAC was added.

Since the 2000s the SFEP's sunset normally occurs every 3-4 years. This gives the industry the option of either adding or deleting counties in this program. In 2024, the SFEP includes fumigations performed in the counties of Los Angeles, Orange, and Santa Clara.

The SFEP participating counties meet with the California Pest Management Association (CAPMA, formerly PCOC) Fumigation Committee representatives each quarter. These meetings allow the included CACs to provide the committee with quarterly reports on the CAC Branch 1 activities in that county. The CACs also discuss enforcement responses and Branch 1 investigations completed during the quarter. Representatives from DPR's Enforcement Branch and the SPCB participate in the SFEP meetings, and so do representatives of the sulfuryl fluoride structural fumigation products. Each give their Branch 1 related updates to the group.

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Structural Fumigation Enforcement Program, Continued

How the fee is collected

The fee is paid directly to each SFEP county by each Branch 1 company and is due at the time their Monthly Summary Pesticide Use Report is submitted for the previous month. B&PC section 8698.1 requires the company to also provide a list of every address that was fumigated by the company in that county during that month. The CACs can compare these lists against all the Branch 1 NOIs they received from the company.

The fee is to be used for the sole purpose of funding Branch 1 enforcement activities directly related to the SFEP. B&PC section 8698.3 authorizes the CAC to take a civil penalty for a Branch 1 company's failure to submit delinquent fees.

County responsibilities

DPR has an MOU with each county in the program, outlining the responsibilities of DPR and the CAC. County responsibilities typically include maintaining records of Use Monitoring or Records Inspections, investigations conducted, and Violation Notices issued under the SFEP. Counties also must submit to DPR a quarterly report within 45 days of the end of each fiscal year quarter containing:

1. The number of Violation Notices issued to registered structural pest control companies or structural licensees under the SFEP.
 2. The number of administrative civil penalty actions resulting from the SFEP.
 3. The number of cases referred to the SPCB under the SFEP.
 4. Documentation of fees collected from registered Branch 1 pest control companies.
 5. All expenses associated with the SFEP.
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DPR responsibilities

DPR's responsibilities under the MOU includes providing oversight and training to CAC personnel to assist them in carrying out their enforcement duties.

DPR can audit the CAC's inspections, investigations, and Violation Notices conducted or issued under the SFEP to ensure the CAC is meeting the obligations imposed by B&PC Division 3, Chapter 14.5

Appendix I.4

Structural Administrative Civil Penalties

Background

Assembly Bill (AB) 294 (Statutes of 1984, Chapter 766) first outlined the process for CAC administrative civil penalties for structural violations, and provided for appeals of CAC decisions to the newly-established Disciplinary Review Committee.

The Board first established regulations addressing CAC structural civil penalties in 1998.

Violation classification and penalties

When CACs take a structural administrative civil penalty, CACs must use 16 CCR section 1922 to classify the violation as a Serious, Moderate, or Minor violation. This section also lays out the fine levels for each class.

These structural civil penalty classifications are NOT identical to violation classifications for civil penalties under FAC section 12999.5 found in 3 CCR section 6130. For example, 16 CCR section 1922(a)(1)(A) defines a “Serious” violation as a repeat of a Moderate violation OR a violation which created an actual health or environmental hazard. The 3 CCR section 6130 definition of a “Class A” violation has many differences.

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Structural Administrative Civil Penalties, Continued

Benefits of CACs issuing a structural civil penalty

CAC use of structural administrative civil penalty authority in B&PC section 8617 allows the SPCB to:

- Pursue disciplinary action against licensees and registered companies for failure to pay a fine within 30 days (B&PC section 8617(h))
- Withhold licensee renewal (B&PC section 8617(i))
- Not sell pesticide use stamps to registered companies (B&PC section 8617(j))

Usually every month, the SPCB issues to CACs and DPR a list of civil penalty fines paid during the previous month.

A structural civil penalty action taken under B&PC section 8617 may be used by the SPCB as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the SPCB pursuant to B&PC section 8620.

Using FAC section 12999.5 civil penalty authority for structural pesticide use violations

In some situations, CACs may elect to take an enforcement action against a structural licensee or registered company for violations of the FAC or 3 CCR under FAC section 12999.5. However, in those situations the SPCB will not be able to: pursue action for non-payment of the penalty, withhold license renewal, or stop the sale of pesticide use stamps to the company. The CAC will also not be able to request reimbursement for their expenses from the Structural Pest Control Education & Enforcement Fund.

Under B&PC sections 8643 and 8647 negligent handling or use of any pesticide and failure to comply with pesticide use requirements in FAC Division 7 Chapter 2 (such as use in conflict with labeling under FAC section 12973) are grounds for disciplinary action by the SPCB. FAC section 12999.2 provides the penalties allowed by FAC Division 7 (such as civil penalties under FAC section 12999.5) are *in addition* to the remedies or penalties allowed under any other law. CACs may still refer such cases to the SPCB for potential disciplinary action against a licensee or registered company under the SPCB's B&PC authority.

Appendix I.5

Structural Enforcement Reimbursement Fund

Introduction DPR, through an agreement with the SPCB, may reimburse CACs for certain expenses incurred when taking a structural administrative civil penalty action.

DPR encourages CACs to submit reimbursement requests as soon as possible. Cases can be submitted for reimbursement when the enforcement action is closed (e.g., when the CAC signs the Notice of Decision or the CAC receives the Respondent's signed stipulation). DPR has a set amount of funds each fiscal year. Reimbursements are issued on a first come, first served basis; funds are dispersed based on when requests are received. Once the funds are depleted, DPR will not provide further reimbursements for other cases closed during that fiscal year.

Instructions for Invoicing Requests for reimbursement of expenses are limited to inspections and investigations resulting in County enforcement actions pursuant to B&PC section 8617. Please review the most recent Enforcement Letter guidance when preparing an invoice, and submit invoices to DPR on County letterhead.

Each request must include:

- Invoice number and date.
 - List each case separately by CalPEATS Enforcement Action number and name of respondent. Provide:
 - Name of employee(s) conducting the investigation,
 - Title or position of each employee,
 - Number of hours expended by each employee during the investigation,
 - Employee rate of pay,
 - Date investigation was closed, and
 - Itemized miscellaneous expenses associated with the case (e.g., supplies, postage).
 - Overhead charges not to exceed 35% (overhead charges include expenses for services or functions performed by other administrative personnel or departments which are apportioned back among all budgeted programs. Actual costs must be identified for reimbursement of overhead charges in excess of 35%).
 - Total amount requested.
 - Reimbursement requests must be signed by an authorized County agent (e.g., Agricultural Commissioner or Deputy Agricultural Commissioner).
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Structural Enforcement Reimbursement Fund, Continued

Instructions for Invoicing,
(continued)

- Include the following or similar statement: *“This claim for reimbursement has been reviewed by [County] pursuant to current county policies and procedures. [County] is requesting reimbursement for expenses incurred during FY [fiscal year].”*
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Submission

Submit invoices as soon as possible, but no less than quarterly, by email to ENF.HQ@cdpr.ca.gov.
