

TITLE 16. STRUCTURAL PEST CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board (Board) is proposing to take action as described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Department of Consumer Affairs
Hearing Room
2005 Evergreen Street
Sacramento, CA 95815
October 13, 2016
9:00 A.M.**

Any interested person, or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile to the Board at (916) 263-2469 or by email to pestboard@dca.ca.gov. The written comment period closes at **5:00 P.M. on Wednesday, October 12, 2016**. The Board will only consider comments received at the Board Office by that time. Submit comments to:

**David Skelton, Administrative Analyst
Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority granted by Business and Professions (B&P) Code Section 8525 and to implement, interpret, or make specific B&P Code Sections 8514 and 8516 the Board is considering the amendment of California Code of Regulations (CCR), Title 16, section 1993.2, the repeal of CCR section 1993.3, and the addition of CCR section 1993.4.

INFORMATIVE DIGEST

Currently, CCR sections 1993.2 and 1993.3 define "in-ground bait station", "above-ground bait station", and "in-ground termite monitoring system" and outline provisions for how these products may be used.

Additionally, CCR section 1993.2 states that a full or limited inspection of the structure must be made prior to the installation of any termite system.

Lastly CCR section 1993.3 states that the use of any termite bait or monitoring system shall be considered a control service agreement as defined in B&P Code section 8516.

This regulatory proposal would make changes to differentiate between baiting and monitoring systems and create unique guidelines for when, and how each may be used.

Specifically, for termite bait stations, this regulatory proposal would retain the requirement that a full or limited inspection must be made prior to their installation, and that their use is to be considered a control service agreement as defined in B&P Code section 8516.

Additionally, this regulatory proposal would allow termite monitoring devices to be used without entering into a control service agreement and without a full or limited inspection having been performed.

Policy Statement Overview / Anticipated Benefits of the Proposed Regulation

The Board anticipates that the proposed regulation will benefit consumers by establishing more appropriate guidelines for both termite baiting and termite monitoring stations. Currently, termite monitoring systems cannot be installed unless it is under the terms of a control service agreement and a company first performs a full or limited inspection of the structure. The Board believes these requirements are not appropriate for devices that do not contain any pesticides and are merely intended to monitor the possible presence or absence of termites. By removing these requirements, the Board feels consumers will benefit by having the option to utilize termite monitoring stations without the cost burden associated with a control service agreement and a full or limited inspection.

Consistency and Compatibility With Existing State Regulations:

During the process of developing the proposed regulation the Board conducted a search for any similar regulations relating to this topic. The Board determined that the proposed regulatory action is not inconsistent or incompatible with existing regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact Statement

The Board has determined that the proposed regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The Board made this determination because the proposed regulation imposes no new requirements or restrictions on California businesses. The proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will not affect the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will not affect the expansion of businesses currently doing business within the state. The Board made this determination because the proposed regulation seeks to more clearly define termite baiting and monitoring systems and articulate the parameters for when and how each may be used.

The Board has determined that the proposed regulatory action will benefit the health of welfare of California's residents, worker safety, and the state's environment in the following ways:

The health and welfare of California residents will benefit from the proposed regulation by being able to utilize termite monitoring devices without having to endure the cost impact of a full or limited inspection of their structure or the cost of a control service agreement.

EFFECT ON HOUSING COSTS

The Board has determined that the proposed regulation will have no effect on housing costs. The Board made this determination because the proposed regulation is not relevant to housing costs.

BUSINESS REPORTING REQUIREMENT STATEMENT

The Board has determined that the proposed regulation will not create a reporting requirement for businesses.

EFFECT ON SMALL BUSINESS

The proposed regulation will have no effect on small businesses because it imposes no new requirements or restrictions.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board's office located at, 2005 Evergreen Street, Suite 1500, Sacramento, California, 95815, or by visiting the Board's website at <http://www.pestboard.ca.gov/forms/index.shtml>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of David Skelton at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board's website at:

<http://www.pestboard.ca.gov/forms/index.shtml>

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: **David Skelton**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **(916) 561-8722**

Fax Number: **(916) 263-2469**

Email Address: david.skelton@dca.ca.gov

The backup contact person is:

Name: **Ronni O’Flaherty**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **(916) 561-8736**

Fax Number: **(916) 263-2469**

Email Address: ronni.oflaherty@dca.ca.gov

Website access: Materials regarding this proposal can be found at the Board’s website at <http://www.pestboard.ca.gov/forms/index.shtml>.