

STRUCTURAL PEST CONTROL BOARD  
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Government Documents

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SPCB ACTION LETTER

June, 1979

SUN DID NOT SET ON STRUCTURAL PEST CONTROL BOARD

Many of you will recall the Structural Pest Control Board, along with twenty five other State Agencies, has been under review since October, 1977, by the Sunset Commission and a final decision to be made on the study during the just ended session of the Legislature. Basically, the review consisted of a study by the Sunset Commission and if a State Agency could not justify its existence, then it would be abolished or combined with another State Agency. Any Agency that could not make it and have its life extended by legislation, would expire on September 1, 1979. Good News! The life of the Structural Pest Control Board has been extended to September 1, 1991 by passage of Senate Bill 486. The Governor signed the Bill last Thursday, June 14, 1979.

The Structural Pest Control Board will continue to function as a separate State Agency as it has since it was created in 1971 with exceptions. The exceptions are amendments to our present law by S.B. 486 and are listed below with some comments.

CHANGES MADE BY S.B. 486

By the way, for a copy of S.B. 486 you can write to the Secretary of State in Austin and you will be mailed a copy. Later when regulations are written and a hearing held, all of you will be sent a new set of regulations and a copy of the Act. It is hoped that when a hearing is held on the regulations you will attend and express your ideas and opinions.

Devices defined - Old law regulated devices for controlling pests but did not define a device. New law defines devices. The definition is rather long and is not included in this letter.

Endorsement of license - "Means an individual who established residence in Texas and who has been determined by the board to meet the qualifications of a certified applicator by taking the appropriate examination in a state other than Texas."

Board enlarged - The board on and after August 30, 1979 shall consist of nine (9) members, instead of the present seven (7). The same three (3) state members as in the past as well as four (4) industry members, and two (2) public members. The industry and public members terms will be staggered. Two industry members will be appointed on August 30, 1979, for a term of one year and two members on August 30, 1979, for a term of two years. One public member will be appointed on August 30, 1979, for a term of one year and one public member will be appointed on August 30, 1979, for a term of two years. Thereafter all appointments will be for two years.

Lobbyist cannot serve on board - "A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended, may not act as the general counsel to the Board or serve as a member of the Board."

Life of board extended - "The Texas Structural Pest Control Board is subject to the Sunset Act and unless continued in existence as provided by that Act the board is abolished and this Act expires effective September 1, 1991."

Certain restrictions placed on board members and employees of the Board -

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A. "A member of the board or an employee of the board who carries out the functions of the board may not:

"(1) be an executive officer, employee, or paid consultant of a trade association in the structural pest control industry;"

"(2) be related within the second degree by affinity or within the third degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the structural pest control industry; or "

"(3) communicate directly or indirectly with a party or the party's representative to a proceeding pending before the board unless notice and an opportunity to participate are given to all parties to the proceeding, if the member or employee is assigned to make a decision, a finding of fact, or a conclusion of law in the proceeding.

B. "A member of the board, except those members who are duly licensed structural pest control operators, may not have personally, nor be related to persons within the second degree by affinity or third degree by consanguinity who have, except as consumers, financial interests in structural pest control businesses as officers, directors, partners, owners, employees, attorneys, or paid consultants of the structural pest control business or otherwise."

C. "The board is subject to the Open Meetings Law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes)."

Exam grades - "Not later than the 30th day after the day on which a person completes an examination administered by the board, the board shall send to the person his examination results. Also if requested in writing, the board, within 30 days must send to the person making such request an analysis of the person's performance on the examination."

Computer use - "The board shall coordinate its computer, administrative, and licensing functions with the Department of Agriculture if the board determines that the coordination would result in the more practical and efficient performance of those functions."

The Board has always furnished the results of exams to persons taking the exams within ten to twelve days and in most cases in less time. The Board has also, when requested, gone over an examination with the individual and given that person an analysis of his or her exam. The Board has also been using the Department of Agriculture computer service, through inter-agency contract to issue licenses.

The above three changes are nothing new but are now made mandatory by S.B. 486.

The board cannot restrict advertising - "The board may not promulgate rules restricting advertising or competitive bidding by licensees except to prohibit false, deceptive, or misleading practices by the licensee."

Keep complainant abreast of complaint - "If a written complaint is filed with the board relating to a licensee under this Act, the board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved or until litigation has been initiated. All records of complaints shall be filed in the offices of the board."

Hearing on complaint - "The board must within 31 days from the date of filing of the complaint determine whether a hearing shall be held on such complaint or whether such complaint shall be dismissed and shall notify both the person who filed the complaint and the person against whom the complaint has been filed of the board's decision."

Approval of regulations - "If the appropriate standing committee of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements."

Pest control contracts to be expanded - "In each written contract in which a licensee under this Act agrees to perform structural pest control services in this state, the licensee shall include the mailing address and telephone number of the board and a statement that the board has jurisdiction over individuals licensed under this Act." The Board through regulation must define contracts. No decision has been made on this as to what it may cover, such as, termite contracts, roach guarantees, or wood infestation reports. The Board will study this and make a correct and practical decision.

Public information program - The Board must establish a public information program in order that the public will be better informed of its functions. The Board will be required to develop and use a standard complaint form and make such forms available to the public and appropriate state agencies. "The information program shall inform prospective applicants for licensing under this Act about the qualifications and requirements for licensing."

Study material and seminars - "The board shall make public a list of study materials and educational seminars that are available to help applicants successfully complete any examination administered under this Act." The Board has been doing this for quite sometime, and would like to request right now that any organization - (business, public, or educational) to send to the Board information as to dates and places of such short courses or seminars.

Expiration date of license to change - "Licenses issued before 1981 shall expire on March 1, BUT licenses issued by the Board during and after 1981 shall expire on December 31 of each year or on various dates of the year, as determined by the Board, IF the board chooses to stagger renewal dates. If licenses are staggered, fees will be prorated on a monthly basis."

The Board has not discussed the possibility of all licenses expiring on December 31 of each year or staggering expiration dates. In fact, the Board has not discussed any rule or regulation to be written under the new Act. The new Act provides for nine (9) members and it is likely that a nine (9) member board will make the recommendation on regulations.

License fees - "An applicant for an initial or renewal Structural Pest Control Endorsement of License, Business License, or a Certified Applicator's License shall accompany his application with a fee of not more than \$75 each, as determined by the board, and a fee of not more than \$20, as determined by the board, for each employee of the applicant who is engaged in structural pest control services."

Replacement of licenses - "A licensee whose license has been lost or destroyed or whose name has been changed shall be issued a replacement license after application therefor and the payment of a fee set by the board not to exceed \$20."

Insurance amount and coverage changed - This Act requires insurance coverage of \$5,000 in property damage coverage and \$25,000 in bodily injury coverage. This Act still requires coverage to premises or any other property under his care, custody, or control. This Act states that insurance amounts be not less than \$5,000 in property damage coverage and \$25,000 in bodily injury coverage and the Board, by regulation, may increase these amounts, as to sufficiency, for different classifications of operations. If there are increases in coverage, they will be made by category - the more hazardous the category, the more insurance coverage.

Financial statement - "Before September 1 of each year, the board shall file a written report with the legislature and the governor in which the board accounts for all funds received and disbursed by the board during the preceding year."

Audit - "The state auditor shall audit the financial transaction of the board during each fiscal year."

You may or may not have known, the Board has always made a report to the Governor and the Legislature of funds received and disbursed by the Board. The Board has been audited by the State Auditor each year. Nothing new here. This Act just makes it mandatory. Apparently some state agencies have not been doing this.

Penalty changed - "An offense under this section is a Class C misdemeanor unless the person has been convicted previously of an offense under this section, in which event the offense is a Class B misdemeanor."

The Texas Structural Pest Control Act continued - "The Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), is to be continued in effect as approved and required under the United States Environmental Protection Agency Public Law #92-516 (Federal Insecticide, Fungicide, and Rodenticide Act of October 21, 1972, and Subsequently amended)."

I am sure you realize you do not get all you want in a new law and in some cases you may get more than you wanted. This session of the Legislature has been an interesting one in many respects. This is the first year for the Sunset Commission to review activities of state agencies and the Commission went through a learning process as well as the Structural Pest Control Board. The Board wishes to express appreciation for your concern and interest in the outcome of this legislation.

## EPA STOPS SALE OF SEVERAL ELECTROMAGNETIC INSECT AND RODENT REPELLERS

EPA has stopped the sale of several electromagnetic insect and rodent repellents because tests have shown they do not work. It was claimed by the manufacturers that these devices would emit low-level "electromagnetic waves" which would disorient harmful insect and rodent pests such as cockroaches, termites, ants, rats, mice, gophers, squirrels, and others within a 1-30 acre range, causing them to stop eating, drinking, and reproducing and, of course, would eventually die. Not so, says EPA.

The repellents are: Nature Shield by Solara Electronics, Inc., of Costa Mesa, California; Sigma by Orgolini Manufacturing Co., Inc., of Sparks, Nevada; and Avis Rodent Control by Sentry Manufacturing, Inc., Fairbury, Nebraska. For two others, The Eliminator by Dal Industries, Inc., Ft. Lauderdale, Florida, and the Amigo Phase 2 by Mira Manufacturing Company, Pine Valley, California. Tests are completed and action is pending.

## RESTRICTED-USE PESTICIDES

Listed below will be the pesticides that were classified by EPA as restricted-use during the period November 3, 1977 and September 22, 1978. The pesticides listed below were correct on November 22, 1978. The list was not made available to the Board until recently. If you need or want the date a particular pesticide was classified for restricted-use, please drop us a note requesting the date and name of the pesticide. Be sure you realize that pesticides classified for restricted-use by EPA may or may not be restricted for all uses. You will have to read the label to be sure of a restricted-use. For instance, Chlordane is still unclassified for termites, but is restricted for fire ants and a couple of other uses. Check all labels for use directions. This list of just over thirty (30) pesticides represents over 1600 labels. There are 106 labels for Endrin, 510 labels for Methyl Parathion, and 637 labels for Ethyl Parathion. There are an additional 14 ingredients scheduled for restricted-use classification for some or all uses in the very near future.

<u>PESTICIDE INGREDIENT</u>	<u>COMMON OR OTHER NAME</u>
DBCP	Nemagon, Fumazone
Acrolein	Aqualin, Magnacide H
Acrylonitrile	Acritet, Vinyl Cyanide
Aldicarb	Temik
Aluminum Phosphide	Phostoxin
Azinphos Methyl	Guthion
Calcium Cyanide	Cyanogas
Demeton	Systox
Endrin	Endrin
Ethyl Parathion	Parathion
Fluoroacetamide	Compound 1081
Hydrocyanic Acid	Hydrogen Cyanide
Methomyl	Lannate, Nudrin
Methyl Bromide	Methyl Bromide
Methyl Parathion	Methyl Parathion
Mevinphos	Phosdrin
Paraquat	Paraquat
Picloram	Tordon
Sodium Cyanide	Cymag
Sodium Fluoroacetate	Compound 1080
Allyl Alcohol	Vinyl Carbinol
Strychnine	Strychnine
Tepp	Tepp
Chlordane	Chlordane
Heptachlor	Heptachlor
Chlordimeform	Galecron, Fundal
Dursban	Killmaster II
Mesuroil	Borderland Black Repellent
Zinc Phosphide	ZP Tracking Powder