

**State of California  
Office of Administrative Law**

In re:  
Structural Pest Control Board

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 1970.1, 1970.42, 1970.43  
Amend section: 1970.4

NOTICE OF APPROVAL OF REGULATORY  
ACTION

Government Code Section 11349.3

OAL Matter Number: 2024-0910-05

OAL Matter Type: Regular Resubmittal (SR)

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This action by the Structural Pest Control Board amends pesticide application notice requirements to update and incorporate by reference Form 43M-48 (Rev. 10/22), delete the former version of the form currently printed in the California Code of Regulations, and further specify pre- and post-application notice requirements.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on January 1, 2025.

Date: October 22, 2024



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Nicole C. Carrillo  
Senior Attorney

For: Kenneth J. Pogue  
Director

Original: Susan Saylor, Executive Officer  
Copy: Sophia Azar

# RESUBMITTAL

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z- 2023-1218-05</b>	REGULATORY ACTION NUMBER <b>2024-0910-05SR</b>	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**OCT 22 2024**

OFFICE OF ADMIN. LAW  
2024 SEP 10 4:59pm

1:43 PM  
*[Signature]*

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY  
Structural Pest Control Board

AGENCY FILE NUMBER (If any)

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER <b>2023,52-2</b>	PUBLICATION DATE <b>12/29/23</b>

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Pesticide Application Notice Requirements	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 1970.41, 1970.42, 1970.43
	AMEND 1970.4
	REPEAL
TITLE(S) 16	

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) N/A

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)  
 Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))  Effective on filing with Secretary of State  §100 Changes Without Regulatory Effect  Effective other (Specify) \_\_\_\_\_

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input checked="" type="checkbox"/> Other (Specify) <u>Kimberly Kirchmeyer, Director, Department of Consumer Affairs</u>		

7. CONTACT PERSON Sophia Azar	TELEPHONE NUMBER (279)236-2502	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) sophia.azar@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <u>Sophia Azar</u>	DATE 9/9/24
TYPED NAME AND TITLE OF SIGNATORY Sophia Azar, Executive Officer, Structural Pest Control Board	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**OCT 22 2024**

**Office of Administrative Law**

California Code of Regulations  
Title 16. Professional and Vocational Regulations  
Division 19. Structural Pest Control Board

ORDER OF ADOPTION

**§ 1970.4. Pesticide Structural Fumigation Disclosure Requirement.**

(a) ~~The primary contractor for fumigation shall have in his or her~~ must possession and shall provide to any subcontractor for fumigation an Occupant Fumigation Notice and Pesticide Disclosure form (See Form number 43M-48, revised 10/2022, which is hereby incorporated by reference (Rev. 5/07) at the end of this section) signed by the occupants, ~~if any,~~ or designated owner or owner's agent of a structure. The prime contractor for fumigation must provide to any subcontractor for fumigation a signed copy of the Occupant Fumigation Notice and Pesticide Disclosure form. The primary contractor for fumigation and the subcontractor for fumigation ~~shall~~ must retain a signed copy of ~~the each occupants fumigation notice~~ Occupant Fumigation Notice and Pesticide Disclosure form for a period of at least three years. In the case of multiple-family dwellings multi-unit structures, the owner, or owner's agent, manager or designated agent of the ~~building structure~~ may obtain signatures and/or verify the notification of the occupants on behalf of the prime contractor.

The Occupant Fumigation Notice and Pesticide Disclosure form shall must state the name of the pest to be controlled, the ~~pesticide(s)/fumigant(s)~~ proposed to be used, the active ingredient(s) and the health cautionary statement as required under section 8538 of the code. The Occupant Fumigation Notice and Pesticide Disclosure form shall must also state that a lethal gas (poison) will be used in the building on indicated dates and that it is unsafe to return to the building until a certification notice for reentry is posted by the licensed fumigator. The form shall must also indicate that the occupant has received the prime contractor's information regarding the procedures for leaving the structure.

The properly signed form or a copy, written or electronic, thereof shall must be in the possession of the licensed fumigator, at the fumigation site, when the fumigant is released. Such form shall must be attached to and become a permanent part of the fumigation log upon completion of the fumigation.

~~(b) Any death or serious injury relating to pesticide application or use, whether to a worker or member of the public, shall be reported to the nearest Structural Pest Control Board office immediately.~~

~~(c) Whenever a licensee employed by a branch 2 or branch 3 registered company applies a pesticide within, around or to any structure such person shall leave in a conspicuous location a written notice identifying the common, generic or chemical name of each pesticide applied. In case of a multiple family structure, such notice may be given to the designated agent or the owner. Such pesticide identification notice may~~

be a door hanger, invoice, billing statement or other similar written document which contains the registered company's name, address, and telephone number.

~~(d) All pest control operators, field representatives, applicators and employees in all branches shall comply in every respect with the requirements of section 8538 of the code. Failure to comply with section 8538 of the code is a misdemeanor and shall constitute grounds for discipline.~~

~~(e) Where notification is required under section 8538 of the code, and the premises on which the work is to be performed is a multiple family dwelling consisting of more than 4 units, the owner/owner's agent shall receive notification and other notices shall be posted in heavily frequented, highly visible areas including, but not limited to, all mailboxes, manager's apartment, in all laundry rooms, and community rooms on all external pest control servicing. Complexes with fewer than 5 units will have each affected unit notified. Any pest control servicing done within a tenant's apartment requires that the tenant be notified according to section 8538 of the code.~~

~~(f) A registered company which applies any pesticide within, around or to any structure shall provide to any person, within 24 hours after request therefore, the common, generic or chemical name of each pesticide applied.~~

Note: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8505.7, 8505.13 and 8538, Business and Professions Code.



**OCCUPANTS FUMIGATION NOTICE AND PESTICIDE DISCLOSURE**

**JOB ADDRESS** \_\_\_\_\_ **CITY** \_\_\_\_\_

Single Family Dwelling \_\_\_\_\_ Multi Family Dwelling \_\_\_\_\_ Other \_\_\_\_\_

**Owner/Agent** \_\_\_\_\_  
 Tel. No. ( ) \_\_\_\_\_ Emergency No. ( ) \_\_\_\_\_

**Occupant** \_\_\_\_\_  
 Tel. No. ( ) \_\_\_\_\_ Emergency No. ( ) \_\_\_\_\_

**Drugs Contractor** \_\_\_\_\_ Emergency No. ( ) \_\_\_\_\_  
**Fumigation Contractor** \_\_\_\_\_ Emergency No. ( ) \_\_\_\_\_

Target Pest(s): ~~Subterranean~~ \_\_\_\_\_ Beetles \_\_\_\_\_ Other(s) \_\_\_\_\_  
 Fumigants proposed to be used: Methyl Bromide \_\_\_\_\_ Sulfuryl Fluoride \_\_\_\_\_  
 Other(s) \_\_\_\_\_ (Market Name)

Are you aware of any conduits, pipes, common drains, air ducts, central vacuum systems or any other construction elements that would allow the passage of a fumigant from the structure to be fumigated to any other adjacent or adjoining structure?  
 YES ( ) NO ( )

**CHLOROPICRIN WILL BE USED AS WARNING AGENT WITH EITHER FUMIGANT**

Date of fumigation: \_\_\_\_\_ Date changes/Alternative date: \_\_\_\_\_  
 Initials: \_\_\_\_\_

**IMPORTANT - READ CAREFULLY**

**THIS BUILDING WILL BE FUMIGATED WITH LETHAL GASES ON THE DATE(S) INDICTED ABOVE. ALL PERSONS AND ANIMALS MUST VACATE THE PREMISES ON OR BEFORE ARRIVAL OF THE FUMIGATION CREW. UNDER NO CIRCUMSTANCES CAN ANYONE ENTER THE BUILDING UNTIL THE FUMIGATION COMPANY'S NOTICE IS POSTED GIVING THE TIME AND DATE FOR SAFE RE-ENTRY.**

\*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 you experience symptoms of dizziness, headache, nausea, reduced awareness, slowed movement, garbled speech or difficulty in breathing, leave the structure immediately and seek medical attention by contacting your physician or Poison Control Center ( ) and notify your pest control company. The warning agent, chloropicrin, can cause symptoms of tearing, respiratory distress and vomiting. Entry into the space during fumigation can be fatal.

For further information, contact any of the following: ( ) for Health Questions - the County Health Department ( ); for Application Information - the County Agricultural Commissioner ( ) and for Regulatory Information - the Structural Pest Control Board, 600/737-8168, 2695 Evergreen Street, Suite 1508, Sacramento, California, 95815.

**FOR HEALTH QUESTIONS:**

<b>COUNTY HEALTH DEPARTMENT</b>	<b>COUNTY AGRICULTURAL COMMISSIONER</b>	<b>POISON CONTROL CENTER</b>	<b>STRUCTURAL PEST CONTROL BOARD</b>
PHONE # _____	PHONE # _____	PHONE # _____	PHONE # _____

(This section may be modified to include the information of geographical area served by the licensee.)

I hereby acknowledge receipt of a copy of this document as well as a list that includes the instructions for the necessary preparations for the fumigation, procedures for leaving the structure, and the following documents:

We suggest that you notify nearby neighbors of the date of fumigation and to keep pets away during the fumigation. Close off any open access to the subarea to prevent pets from entering.

( ) Owner/Agent (signature) \_\_\_\_\_ Date \_\_\_\_\_  
 ( ) Occupant(s) (signature) \_\_\_\_\_

**§ 1970.41 Pesticide Pre-Application Notice**

In the pre-application pesticide notice, "conspicuous place" as it is used in section 8538 of the code, means heavily frequented common areas, including the on-site manager's office or unit, all multi-unit mailboxes, in all laundry rooms, and community rooms for all exterior pest control services.

Note: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8525 and 8538, Business and Professions Code.

**§ 1970.42 Pesticide Post-Application Notice Requirements.**

(a) In addition to notification required by section 8538 of the code, whenever a licensee employed by a registered Branch 2 or Branch 3 company has applied or used a pesticide the licensee must provide a post-application pesticide notice in compliance with subdivision (b) immediately after the service visit as follows:

(1) When applied around or to the exterior of any structure, the post-application pesticide notice must be provided in writing personally to the occupant, owners, or owners' agent, or by first-class mail. Alternatively, the post-application pesticide notice may be provided via electronic mail if the occupant, owners, or owners' agent has authorized such communication method via contract or other written confirmation of such agreement.

(2) When applied to the interior of a unit within a multi-unit residential structure, the post-application pesticide notice must be provided in writing and left on the door of the unit, or within the unit in an area next to the door of the unit.

(3) When applied to the interior of a commercial, industrial, or single-unit residential structure, the notice must be provided in a manner as described in subdivision (a)(1).

(b) The post-application pesticide notice specified in (a) may be a door hanger, invoice, billing statement, or other similar written document and must include:

(1) The common, generic, or chemical name of each pesticide applied;

(2) The date of service; and

(3) The registered company's name, address, and telephone number.

(c) A registered structural pest control company which applies any pesticide within, around or to any structure must provide to any person, within 24 hours after request therefore, the common, generic or chemical name of each pesticide applied. This requirement applies to all requests made within three years of the pesticide application.

Note: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8505.13, 8525 and 8538, Business and Professions Code.

**§ 1970.43 Reporting Death or Serious Injury.**

In the event of any death or serious injury relating to a structural fumigation or pesticide application or use, whether to the owner, an employee of the registered structural pest control company, or a member of the public, a representative from the structural pest control company must, immediately upon learning of the incident, report it by telephone to both the Structural Pest Control Board office and the County Agricultural Commissioner's office in the county where the structural fumigation or pesticide application or use occurred.

Note: Authority cited: Section 8525, Business and Professions Code. Reference: Section 8525 and 8538, Business and Professions Code.

**OCCUPANT FUMIGATION NOTICE & PESTICIDE DISCLOSURE**

Address of Structure to be Fumigated: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Single-Unit Structure Owner/Agent: \_\_\_\_\_  
 Multi-Unit Structure Contact Number(s): \_\_\_\_\_  
 Other: \_\_\_\_\_ Occupant(s): \_\_\_\_\_  
 Contact Number(s): \_\_\_\_\_

Prime Contractor: \_\_\_\_\_ PR #: \_\_\_\_\_ Emergency Number: \_\_\_\_\_

Fumigation Contractor: \_\_\_\_\_ PR #: \_\_\_\_\_ Emergency Number: \_\_\_\_\_

Target Pest: \_\_\_\_\_ Fumigant Brand Name: \_\_\_\_\_

Active Ingredient: Sulfuryl Fluoride

IF YOU ARE AWARE OF ANY CONDUITS, PIPES, COMMON DRAINS, CENTRAL VACUUM SYSTEMS, AIR DUCTS, OR ANY OTHER CONSTRUCTION ELEMENTS THAT WOULD ALLOW FOR THE PASSAGE OF A FUMIGANT FROM THE STRUCTURE TO BE FUMIGATED TO ANY OTHER ADJACENT OR ADJOINING STRUCTURES THAT ARE NOT TO BE FUMIGATED, PLEASE DESCRIBE IN DETAIL:

\_\_\_\_\_  
 \_\_\_\_\_

CHLOROPICRIN WILL BE USED AS A WARNING AGENT

Start Date of Fumigation: \_\_\_\_\_ Change of Start Date: \_\_\_\_\_

End Date of Fumigation: \_\_\_\_\_ Change of End Date: \_\_\_\_\_

**IMPORTANT READ CAREFULLY**

THIS STRUCTURE WILL BE FUMIGATED WITH A LETHAL GAS ON THE DATE(S) INDICATED ABOVE. ALL PERSONS AND ANIMALS MUST VACATE THE STRUCTURE ON OR BEFORE ARRIVAL OF THE FUMIGATION CREW.

UNDER NO CIRCUMSTANCES CAN ANYONE ENTER THE STRUCTURE UNTIL THE FUMIGATION COMPANY'S NOTICE IS POSTED GIVING THE TIME AND DATE FOR SAFE RE-ENTRY.

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 of dizziness, headache, nausea, reduced awareness, slowed movement, garbled speech, or difficulty in breathing, leave the structure immediately and seek medical attention by contacting your physician or Poison Control Center (\_\_\_\_\_) and notify your pest control company. The warning agent chloropicrin can cause symptoms of tearing, respiratory distress, and vomiting. Entry into the space during fumigation can be fatal.

For further information, contact any of the following: (\_\_\_\_); for Health Questions the County Health Department (\_\_\_\_); for Application Information the County Agricultural Commissioner (\_\_\_\_) and for Regulatory Information the Structural Pest Control Board 916-561-8700, 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815.

FOR HEALTH QUESTIONS:

County Health Department Phone Number	County Agricultural Commissioner Phone Number	Poison Control Center Phone Number	Structural Pest Control Board Phone Number

(This section may be modified to include the information of geographical area served by the licensee)

WE SUGGEST YOU NOTIFY YOUR NEIGHBORS OF THE START AND END DATE OF FUMIGATION AND TO KEEP PETS AWAY DURING THE FUMIGATION. CLOSE OFF ANY ACCESS TO THE SUBAREA TO PREVENT PETS FROM ENTERING.

I hereby acknowledge receipt of a copy of this document and the information contained herein, a list that includes the instructions for the necessary preparations for the fumigation, procedures for leaving the structure, the fact sheet for the fumigant to be used, and the documents listed below, if any. \_\_\_\_\_

Owner/Agent signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Occupant signature: \_\_\_\_\_ Date: \_\_\_\_\_