# 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)

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

Nicole C. Carrillo Senior Attorney

For:

Kenneth J. Pogue

Director

Original: Susan Saylor, Executive Officer

Copy:

Sophia Azar

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW For use by Secretary of State only NOTICE PUBLICATION/REGULATIONS SUBMISSION reverse) STD. 400 (REV. 10/2019) NOTICE FILE NUMBER REGULATORY ACTION NUMBER EMERGENCY NUMBER OAL FILE 2024-0910-05SR NUMBERS **Z-** 2023-1218-05 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 2 2 2024 OFFICE OF ADMIN. LAW 2024 SEP 10 4:59pm REGULATIONS NOTICE AGENCY WITH RULEMAKING AUTHORITY AGENCY FILE NUMBER (If any) Structural Pest Control Board A. PUBLICATION OF NOTICE (Complete for publication in Notice Register) 1. SUBJECT OF NOTICE TITLE(S) FIRST SECTION AFFECTED 2. REQUESTED PUBLICATION DATE FAX NUMBER (Optional) 3 NOTICE TYPE 4. AGENCY CONTACT PERSON TELEPHONE NUMBER Notice re Proposed Other Regulatory Action ACTION ON PROPOSED NOTICE PUBLICATION DATE NOTICE REGISTER NUMBER OAL USE Disapproved Approved as Approved as 2023,52-2 ONLY Withdrawn B. SUBMISSION OF REGULATIONS (Complete when submitting regulations) 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 1a. SUBJECT OF REGULATION(S) Pesticide Application Notice Requirements 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) SECTION(S) AFFECTED 1970.41, 1970.42, 1970.43 (List all section number(s) AMEND individually. Attach 1970.4 additional sheet if needed.) TITLE(S) REPEAL 16 3. TYPE OF FILING Certificate of Compliance: The agency officer named Changes Without Regular Rulemaking (Gov. Emergency Readopt Regulatory Effect (Cal (Gov. Code, §11346.1(h)) below certifies that this agency complied with the Code §11346) Code Regs., title 1, §100) provisions of Gov. Code §§11346.2-11347.3 either Resubmittal of disapproved before the emergency regulation was adopted or or withdrawn nonemergency within the time period required by statute. File & Print Print Only filing (Gov. Code §§11349.3, 11349.4) Resubmittal of disapproved or withdrawn Emergency (Gov. Code, Other (Specify) emergency filing (Gov. Code, §11346.1) §11346.1(b)) 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 ) §100 Changes Without Regulatory Effect Effective January 1, April 1, July 1, or Effective on filing with Effective other October 1 (Gov. Code §11343.4(a)) Secretary of State (Specify) CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal diship six layer Kimberly Kirchmeyer, Director, Department of Consumer Affairs Cther (Specify) TELEPHONE NUMBER FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) 7. CONTACT PERSON sophia.azar@dca.ca.gov Sophia Azar (279)236-2502 8. I certify that the attached copy of the regulation(s) is a true and correct copy For use by Office of Administrative Law (OAL) only of the regulation(s) identified on this form, that the information specified on this form SED APPROVED 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. OCT 2 2 2024 SIGNATURE OF AGENCY HEAD OR DESIGNEE DATE Sophia Azar 9/9/24 TYPED NAME AND TITLE OF SIGNATORY Office of Administrative Law Sophia Azar, Executive Officer, Structural Pest Control Board

# 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 primeary contractor for fumigation shall have in his or her must possession and shall provide to any subcontractor for fumigation and 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 primeary contractor for fumigation and the subcontractor for fumigation shallmust retain a signed copy of theeach 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 shallmust 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 shallmust 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 shallmust 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 shallmust be in the possession of the licensed fumigator, at the fumigation site, when the fumigant is released. Such form shallmust 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.

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## § 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

State:	State: Zip:			
Owner/Agen	ıt:			
Contact Nun	Contact Number(s):			
Occupant(s):	Occupant(s):			
Contact Nun	nber(s):			
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