

**TITLE 16. STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS**

**FINAL STATEMENT OF REASONS**

**Hearing Date:** No hearing was requested.

**Subject Matter of the Proposed Regulation:** Pesticide Application Notice Requirements

**Sections Affected:** California Code of Regulations (CCR), Title 16, sections 1970.4, 1970.41, 1970.42, and 1970.43.

**Initial Statement of Reasons Updated Information:** The SPCB is incorporating by reference Occupants Fumigation Notice and Pesticide Disclosure form (Form number 43M-48, revised 10/22). It would be cumbersome, unduly expensive, or otherwise impractical to publish the form in the California Code of Regulations.

The Initial Statement of Reasons is included in the rulemaking file; the information contained therein is updated as follows:

During the 45-day comment period, there was no request for a public hearing.

During the 45-day comment period the Board received one public comment on proposed section 1970.43. The comment received and the Board's response, which were approved at the August 26, 2024, Board meeting is summarized in the "Summary and Response to Each Objection or Recommendation" section below.

The Board is adding the August 26, 2024, SPCB meeting minutes as Underlying Data.

**Determination of Local Mandate:** The proposed regulation does not impose any mandates on any local agencies or school districts.

**Summary and Response to Each Objection or Recommendation:** The SPCB received one comment pertaining to the proposed regulation during the comment period. The comment was to include in proposed section 1970.43 a mandate to inform the Prime Contractor of any death or serious injury, where relevant.

*Board Response:*

The Board's originally proposed text at CCR 1970.43 states:

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, must be reported immediately upon learning of the serious injury or death 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

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occurred.

This comment, therefore, proposes to add the text emphasized above that includes a new reporting requirement to the Prime Contractor (if applicable) under these circumstances.

The purpose of this provision was to ensure that applicable enforcement agencies are notified of these events to ensure coordination of investigation and enforcement of laws and regulations designed to protect the public. It is unclear when such a proposed notice requirement would be “applicable” as suggested by the commenter.

Nevertheless, such a requirement is unnecessary since as part of any investigation into a death or serious injury case, a prime contractor would be contacted to determine their level of responsibility in such a case by representatives of the Board. Business and Professions Code (BPC) section 8514(g) provides, in part:

Subcontracting of work, as permitted in this section, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, an act or omission on its part, which would otherwise be a ground for disciplinary action.

At the least, notice would be provided upon action taken by the Board (see BPC sections 8620, 8663, and 8664). Not including notice to the prime contractor in the first instance allows the Board time to collect and evaluate evidence and contact other witnesses before contact with the prime contractor occurs.

**Consideration of Alternatives:** The SPCB has determined that no proposed or considered alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The SPCB made this determination because none of the options available would be as effective in carrying out the purpose for which the action is proposed.

**Small Business Impact:** The SPCB 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 SPCB made this determination because the proposed regulation imposes no new requirements or restrictions on California businesses. The purpose of the proposed regulation is to clarify existing requirements for structural pest control businesses and consumers.

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