

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

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** July 23, 2015

**Subject Matter of Proposed Regulation:** Pesticide Disclosure Requirements

**Section Affected:** 16 CCR 1970.4

**PROBLEM BEING ADDRESSED:**

Title 16, California Code of Regulations (CCR), Section 1970.4 requires that a properly signed form or copy thereof of an Occupant Fumigation Notice (OFN) (Form 43M-8) be in the possession of the licensed fumigator at the time the fumigant is released.

As currently written, CCR Section 1970.4 makes no allowance for the properly signed form or copy thereof to be in electronic form.

**ANTICIPATED BENEFITS FROM THIS REGULATORY ACTION:**

The Board anticipates that the proposed change will have the benefit of clarifying regulatory language that has become vague. As currently written, CCR Section 1970.4 requires a signed form or copy of the OFN to be present at the time the fumigant is released. Technology that is commonly used today allows for documents to be stored and displayed electronically however, the current language makes no explicit allowance for that technology to be employed.

**SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL:**

There are two purposes to the requested regulation change. The first purpose is to better and fully implement B&P Code Section 8538, which mandates that specific pest and pesticide information be provided and be available to the owner or owner's agent and tenant. The second purpose is to clarify a regulation by adding language that makes it explicitly clear that an electronic copy of an OFN is acceptable and meets the requirement of the licensed fumigator possessing a signed form or copy of the OFN prior to releasing the fumigant.

**NECESSITY**

To better implement Business and Professions Code (B&P Code) Section 8538, the Board has determined that it is necessary to amend CCR Section 1970.4 to allow for the possession of an electronic copy of the OFN to satisfy the requirement that a licensed fumigator possess a signed form or copy of an OFN prior to releasing fumigants.

Technology that is commonly used today allows for documents to be stored and displayed electronically and in consideration of these two factors, the Board finds it necessary to clarify the regulatory language in 16 CCR Section 1970.4.

### **UNDERLYING DATA**

None

### **BUSINESS IMPACT**

This regulation will not have a significant adverse economic impact on businesses.

This initial determination is based on the following facts or evidence/documents/testimony: The amendment only allows an existing form to be kept in an electronic format.

### **ECONOMIC IMPACT ASSESSMENT**

#### **Creation or Elimination of Jobs Within the State**

The Board anticipates that the proposed regulation will not impact the creation or elimination of jobs within the state. The Board has made this determination because the proposed regulation seeks only to clarify existing language and imposes no new requirements on the regulated public.

#### **Creation of New or Elimination of Existing Businesses Within the State**

The Board anticipates that the proposed regulation will have no effect on the creation of new businesses or the elimination of existing businesses. The Board has made this determination because the proposed regulation seeks only to clarify existing language and imposes no new requirements on the regulated public.

#### **Expansion of Businesses Currently Doing Business Within the State**

The Board anticipates that the proposed regulation will not impact the expansion of businesses currently doing business within the state. The Board has made this determination because the proposed regulation seeks only to clarify existing language and imposes no new requirements on the regulated public.

#### **Benefits to the Health and Welfare of California Residents, Worker Safety, and Environment**

The Board has determined that the proposed regulation will benefit the health and welfare of California residents by clarifying language in a manner that will allow licensed companies performing fumigations to possess an OFN in electronic form. In clarifying this language, the

Board is making it easier for licensed companies to comply with a requirement that is in place for the protection of the public.

The Board has determined that the proposed regulation does not affect worker safety. The Board has made this determination because the proposed regulation is not relevant to worker safety.

The Board has determined that the proposed regulation does not affect the state's environment. The Board has made this determination because the proposed regulation is not relevant to state's environment.

### **MANDATE ON SPECIFIC TECHNOLOGIES OR EQUIPMENT**

The proposed regulation does not impose a mandate requiring the use of specific technologies or equipment.

### **CONSIDERATION OF ALTERNATIVES**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons or businesses or equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Alternative 1: Continue to require that a paper copy of the OFN be in possession of the licensed fumigator at the time the fumigant is released.

Rejected: In order to effectively implement the intent of the enabling statutes it is necessary to amend CCR Section 1970.4 in a manner that will clearly make an allowance for an electronic copy of the OFN to satisfy the requirement that a signed form or copy thereof be in possession of the licensed fumigator at the time the fumigant is released.

Technology that is commonly used today allows for documents to be stored and displayed electronically and in consideration of that the Board finds it necessary to clarify the regulatory language in CCR Section 1970.4.