

TITLE 16. STRUCTURAL PEST CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board (Board) is proposing to take action as described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Sheraton Ontario Airport
Orchid Ballroom
429 N. Vineyard Avenue
Ontario, CA 91764
July 23, 2015
8:00 A.M.**

Any interested person, or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile to the Board at (916) 263-2469 or by email to pestboard@dca.ca.gov. The written comment period closes at **5:00 P.M. on Wednesday, July 22, 2015**. The Board will only consider comments received at the Board Office by that time. Submit comments to:

**David Skelton, Administrative Analyst
Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority granted by Business and Professions (B&P) Code Section 8525 and to implement, interpret, or make specific B&P Code Sections 8505.7, 8505.13, and 8538 the Board is proposing to amend Section 1970.4 of Division 19, of Title 16, of the California Code of Regulations (CCR).

INFORMATIVE DIGEST

Currently, 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.

In order to clarify its meaning and intent, and to update its regulatory language in consideration of available industry technology, the Board seeks to amend CCR Section 1970.4 by adding language to make it explicitly clear that an electronic copy of the OFN is permissible.

Policy Statement Overview / Anticipated Benefits of the Proposed Regulation

The regulations enforced by the Board exist for the protection of California consumers and to inform licensees of their rights and responsibilities within the scope of practice. Currently, the regulations are silent as to whether an OFN can be in electronic format. As such, signed paper copies of the OFN have to be given physically to the licensed fumigator before fumigation can begin. The proposed regulation would allow licensed fumigators to begin their fumigation work if they have signed copies of the OFN in an electronic format.

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 allowance for that technology to be employed.

Consistency and Compatibility with Existing State Regulations:

During the process of developing the proposed regulation the Board conducted a search for any similar regulations relating to this topic. The Board determined that the proposed regulatory action is not inconsistent or incompatible with existing regulations. The Board is the only state agency authorized to require that a signed copy of the OFN be present at the time the fumigant is released; therefore the proposed regulation will not conflict with any existing regulations on that topic.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs / Savings in Federal Funding to the State: None

Nondiscretionary Costs / Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

BUSINESS IMPACT STATEMENT

The Board has determined that the proposed regulation will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

The Board made this determination because the proposed regulation seeks only to make a clarifying change in the regulatory language and will impose no new requirements, monetary or otherwise.

The following reporting, record keeping, or other compliance requirements are projected to result from the proposed regulation: None

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

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

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

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

The Board has determined that the proposed regulatory action will benefit the health of welfare of California's residents, worker safety, and the state's environment in the following ways:

By clarifying vague regulatory language to allow electronically stored and displayed documents to satisfy the existing regulatory requirements of CCR Section 1970.4. More specifically, by making it clear that an electronic copy of the signed OFN is acceptable.

BUSINESS REPORTING REQUIREMENT STATEMENT

The Board has determined that the proposed regulation will not create a reporting requirement for businesses. The Board made this determination because the proposed regulation seeks only to clarify existing language and imposes no new requirements on the regulated public.

The Board has determined that the proposed regulation will have no effect on housing costs. The Board made this determination because the regulatory effect of the proposal is not relevant to housing costs.

EFFECT ON HOUSING COSTS

The Board has determined that the proposed regulation will have no effect on housing costs. The Board made this determination because the regulatory effect of the proposal is not relevant to housing costs.

EFFECT ON SMALL BUSINESS

The proposed regulation will not have an effect on small businesses because it will only clarify existing language and imposes no new requirements that would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the

Board's office located at, 2005 Evergreen Street, Suite 1500, Sacramento, California, 95815, or by visiting the Board's website at <http://www.pestboard.ca.gov/forms/index.shtml>.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: **David Skelton**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **(916) 561-8722**

Fax Number: **(916) 263-2469**

Email Address: david.skelton@dca.ca.gov

The backup contact person is:

Name: **Ronni O'Flaherty**

Address: **Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, CA 95815**

Telephone Number: **(916) 561-8736**

Fax Number: **(916) 263-2469**

Email Address: ronni.oflaherty@dca.ca.gov

Website access: Materials regarding this proposal can be found at the Board's website at <http://www.pestboard.ca.gov/forms/index.shtml>.