

STRUCTURAL PEST CONTROL BOARD (Revised Notice)

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board is proposing to take the action 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 Courtyard Marriott, 1510 University Avenue Riverside, California, at 9:00, a.m., on October 17, 2003. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Structural Pest Control Board at its office not later than 5:00 p.m. on October 16, 2003 or must be received by the Structural Pest Control Board at the hearing. The Structural Pest Control Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. 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 vested by Sections 8525 of the Business and Professions Code, and to implement, interpret or make specific Sections 8505.5, 8505.7, 8505.13, 8505.15, 8505.16, 8516, 8642, 8646 and 8652 of said Code, the Structural Pest Control Board is considering changes to Division 19 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend 1970: Standards and Record Requirements.

Registered companies are currently required to maintain a fumigation log for each fumigation job performed. This amendment would require a fumigating contractor to provide to its prime contractor a complete fumigation log within 10 working days after a fumigation is completed, and require the prime contractor to retain the fumigation logs for at least three years.

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 Section 17561

Requires Reimbursement: None

Business Impact:

The Structural Pest Control Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Structural Pest Control Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Structural Pest Control 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.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

Section 1970 will have no effect on small business because fumigating pest control companies already complete a fumigation log. This amendment will require the fumigating subcontractor to provide a copy of the fumigation log to the primary contractor and for the primary contractor to retain the logs for three years.

CONSIDERATION OF ALTERNATIVES

The Structural Pest Control Board must determine that no reasonable alternative is considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

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 Structural Pest Control 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 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 Structural Pest Control Board at 1418 Howe Ave Suite 18, Sacramento, California 95825.

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.

CONTACT PERSON

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

Name: Delores Coleman
Address: 1418 Howe Avenue, Suite 18
Sacramento, CA. 95825
Telephone No.: (916) 561-8700
Fax No.: (916) 263-2469
E-Mail Address: Delores_Coleman@dca.ca.gov

The backup contact person is:

Name: Susan Saylor
Address: 1418 Howe Avenue, Suite 18
Sacramento, CA 95825
Telephone No.: (916) 561-8700
Fax No.: (916) 263-2469
E-Mail Address: Susan_Saylor@dca.ca.gov

Website Access [if you have a website]: Materials regarding this proposal can be found at www.pestboard.ca.gov

Proposed Text

§1970. Standards and Record Requirements.

For the purpose of maintaining proper standards of safety and the establishment of responsibility in handling the dangerous gases used in fumigation and the pesticides used in other pest control operations, a registered company shall compile and retain for a period of at least three years, a log for each fumigation job and for each pesticide control operation in which a pesticide is used by the registered company or the registered company's employee. The subcontract fumigator shall provide an accurate and complete copy of the fumigation log to the prime contractor within 10 working days of completion of a fumigation. The prime contractor shall retain the fumigation log for a period of at least three years.

(a) The log (See Form 43M-47 (~~New 5/96 Rev. 5/03~~) at the end of this section) for each fumigation job shall contain the following information:

Name, address and company registration certificate number of prime contractor.

Name, address and company registration certificate number of subcontractor, if any.

Address of property.

Date of fumigation.

Name and address of owner or his or her agent.

~~Name and address of guard.~~

Date and hour fire department was notified pursuant to Business and Professions Code section 8505.5.

~~Date and hour police department was notified, where required by local ordinance.~~

Date and hour county agricultural commissioner was notified and method of notification, where required.

Property description including type of structure as to details of roofing, walls, and the presence of construction elements, conduits, drains, or vacuum systems that could allow the passage of fumigant from the structure to be fumigated to any adjacent or adjoining structure(s), thereby connecting them, and method(s) used to prevent passage of the fumigant.

Cubic feet fumigated.

Target pest(s).

Kind of fumigant(s) used.

United States Environmental Protection Agency registration number(s) of fumigant(s).

Name of warning agent and amount used.

Type of sealing method used.

Weather conditions as to temperature and wind.

Date and hour fumigant introduced.

Cylinder number of each fumigant used.

Weight of each fumigant cylinder before introduction of gas.

Pounds of fumigant used from each cylinder.

Total pounds of fumigant used.

List of any extraordinary safety precautions taken.

Name, signature and license number of operator or field representative releasing fumigant.

First name and surname of crew when fumigant was released, when aeration

commenced and when the property was released for occupancy.

Indication of whether or not safety equipment was available at the fumigation site at the time the fumigant was introduced, when ventilation commenced and when the property was released for occupancy.

Date and hour aeration commenced.

Conditions of tarp and seal.

Name, signature and license number of operator or field representative commencing ventilation.

Type of device(s) used to test for re-entry.

Date and hour ready for occupancy.

Name, signature and license number of operator or field representative releasing property for occupancy.

Method used to calculate amount of fumigant used.

Factors used in calculation of fumigant.

Special notes or comments pertinent to fumigation.

(b) The report for each pest control operation, other than fumigation, in which a pesticide is used shall contain the following information:

Date of treatment.

Name of owner or his or her agent.

Address of property.

Description of area treated.

Target pest(s).

Pesticide and amount used.

Identity of person or persons who applied the pesticide.

(c) The term "fraudulent act" as used in Section 8642 includes but is not limited to the falsification of any records pertaining to fumigation jobs or other pest control operations in which a pesticide other than a fumigant is used.

NOTE: Authority cited: Section 8525, Business and Professions Code. Reference: Sections 8505.5, 8505.7, 8505.13, 8505.15, 8505.16, 8516, 8642, 8646 and 8652, Business and Professions Code.

NOTE:

Language in the gray shaded area represents language from another rulemaking change waiting The Office of Administrative Law approval.

Structural Pest Control Board

INITIAL STATEMENT OF REASONS

Hearing Date: October 17, 2003

Subject Matter of Proposed Regulations: Standards and Record Requirements

Section Affected: 1970

Specific Purpose of each adoption, amendment, or repeal:

This proposal will add language that subcontractors must provide a complete copy of the fumigation log to the prime contractors within 10 working days after a fumigation has been completed, and that the prime contractor must retain the log for three years.

Factual Basis/Rationale:

There is no law that requires fumigators to provide their fumigation log to their primary contractor and no law that says the primary contractor must retain the log for three years.

Underlying Data

None

Business Impact

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

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.