

Attachment D

Consultation Questionnaire for the “Soil and Non-Soil Fumigant Risk Mitigation” Renewal ICR

OMB Control No.: 2070-0197; EPA No.: 2451.03

Docket ID No.: EPA-HQ-OPP-2022-0150

Representative Consulted

Company Name:

Questions Related to Soil Fumigants

(1) Publicly Available Data

- Is the information (i.e. Fumigant management plan (FMP) and Post Application Summary (PAS), training materials, etc.) that the Agency requests available from any public source, or already collected by another office at EPA or by another agency?
- If yes, where can you find the information? (Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they do not meet our data needs very well?)

(2) Frequency of Collection

- Can applicators record, maintain, and distribute the information less frequently and still produce the same outcome?

(3) Clarity of Instructions

The ICR is intended to account for the paperwork burdens associated with the requirements for certain fumigant product users to develop FMPs and Post Application Summaries (PASs), to post signs, to participate in fumigant-specific trainings when required, and to provide certain information to decrease the likelihood of applicator, handler, and bystander exposure to fumigants.

- Based on the available instructions (fumigant labeling requirements, EPA guidances, etc.), is it clear what is required? If not, what suggestions do you have to clarify the instructions?
- Do you understand that you are required to maintain records? How long you are required to maintain these records?
- While there no required forms associated with this process, EPA does provide sample FMP/PAS templates for soil fumigants online (<https://www.epa.gov/soil-fumigants>)? Do you use them or have you developed your own format?
 - If you use EPA’s templates, are they clear, logical, and easy to use? Do you have recommendations on improving the templates?
 - If you have developed your own format, why did you choose to do so?

(4) Electronic Reporting and Recordkeeping

- Are you completing the FMPs and PASs and maintaining records by paper or electronically?
 - If you are using paper, is it possible for you to keep records electronically?
 - If yes, why have you chosen to complete the requirements by paper?
 - If no, what obstacles have you experienced that prevent you from completing the requirements electronically?
 - If you are completing the requirements electronically, in what format (e.g., Word, Excel, online, etc.)?
 - Has electronic recordkeeping reduced your paperwork burdens? If so, please explain.
- What benefits would electronic reporting and recordkeeping bring you in terms of burden reduction or greater efficiency in compiling the information?

(5) Burden and Costs

- The Agency assumes there are some capital costs for soil fumigant users for buffer zone signs and monitoring equipment (e.g., testing devices and Draeger tubes). Are the estimates for these capital costs accurate? Are there other capital costs that have not been captured in this ICR?
- How many soil fumigant applications are made annually? Please list the fumigant(s) and site(s) covered by your estimate.
- How long does it take to complete a soil fumigant FMP? Please list the fumigant(s) and site(s) covered by your estimate.
- Bearing in mind that the burden and cost estimates include only burden hours and labor costs associated with the paperwork involved with this ICR (e.g., the ICR does not include estimated burden hours and costs for conducting studies), are the estimated burden hours and labor rates accurate? If you provide burden and labor cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates. Also, please specify the type and site(s) of fumigation.
- Are there other costs that should be accounted for that may have been missed?

Questions Related to Non-Soil Fumigants

(1) Publicly Available Data

- Is the information (e.g., Fumigant Management Plans (FMPs) or training materials) that the Agency requests available from any public source, or already collected by another office at EPA or by another agency? (Several fumigants are still in the registration review process, so mitigation is subject to change.)
- If yes, where can you find the information? (Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they do not meet our data needs very well?)

(2) Frequency of Collection

- Can you record, maintain, and distribute the information less frequently and still produce the same outcome?
- On average, how many non-soil fumigant applications are performed in any given year?
- Some homes, buildings, and commodities may be fumigated every year, by the same pest control company or under contract, such that the time required for all subsequent, similar applications to that same site is reduced significantly. However, the current data available to EPA does not make a distinction between initial and subsequent applications. Due to limited information, EPA has assumed that every non-soil fumigant application requires a new FMP (except EtO and sulfuryl fluoride which are still in registration review; therefore, requirements for EtO and sulfuryl fluoride are subject to change), and that the estimated burden hours are the same for all non-soil fumigant applications.
 - If applicators typically perform subsequent applications at the same site, can you provide a rough estimate of how frequently these subsequent applications occur (e.g. about 25%, 50%, etc. of total applications)? Please list the type(s)/site(s) of these non-soil applications.
 - How much time does it take to complete the requirements identified in this ICR for the either a one-time application or an initial application? For subsequent applications? Please list the type(s)/site(s) of these non-soil applications.
- Specifically for EtO, is EPA's assumption correct for the time to develop the EtO Safety and Awareness training, time to take the training, and time to complete an annual update of the training? If not, please provide estimates of the time needed to complete these activities.

(3) Clarity of Instructions

The ICR is intended to account for the paperwork burdens associated with the requirements for certain fumigant product users to develop FMPs, to develop or participate in fumigant-specific trainings when required, and to provide certain information to decrease the likelihood of applicator, handler, and bystander exposure to fumigants.

- Based on the available instructions (fumigant labeling requirements, EPA guidances, etc.), is it clear what is required? If not, what suggestions do you have to clarify the instructions?

- Do you understand that you are required to maintain records? How long you are required to maintain these records?
- While there no required forms associated with this process, EPA does provide sample FMP templates for soil fumigants online (<https://www.epa.gov/soil-fumigants>). Do you use them as a guide for completing the non-soil fumigant requirements, or have you developed your own format?
 - If you have developed your own format, why did you choose to do so?
 - Without an available template specification created for non-soil fumigants, has it been difficult to develop your own format to comply with the non-soil fumigant labels? Do you believe that an EPA-developed template for non-soil fumigants will help to reduce burden?

(4) Electronic Reporting and Recordkeeping

- Are you completing the FMPs and maintaining records by paper or electronically?
 - If you are using paper, is it possible for you to keep records electronically?
 - If yes, why have you chosen to complete the requirements by paper?
 - If no, what obstacles have you experienced that prevent you from completing the requirements electronically?
 - If you are completing the requirements electronically, in what format (e.g., Word, Excel, online, etc.)?
 - Has electronic recordkeeping reduced your paperwork burdens? If so, please explain.
- What benefits would electronic reporting and recordkeeping bring you in terms of burden reduction or greater efficiency in compiling the information?

(5) Burden and Costs

- The Agency assumes there are some capital costs for soil fumigant users for buffer zone signs and monitoring equipment, but did not identify similar costs for non-soil fumigants. Are there similar capital costs for non-soil fumigant applications? Please provide estimates for the capital costs that may be associated with non-soil fumigant applications.
- How many non-soil fumigant applications are made annually? Please list the fumigant(s) and site(s) covered by your estimate.
- How long does it take to complete a non-soil fumigant FMP? Please list the fumigant(s) and site(s) covered by your estimate.
- Bearing in mind that the burden and cost estimates include only burden hours and labor costs associated with the paperwork involved with this ICR (e.g., the ICR does not include estimated burden hours and costs for conducting studies), are the estimated burden hours and labor rates accurate? If you provide burden and labor cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates. Also, please specify the type and site(s) of fumigation.

Are there other costs that should be accounted for that may have been missed?

**Douglas Products' Response to EPA's Sulfuryl Fluoride
Draft Interim Re-Entry Mitigation Measures and Supporting Documents**

EPA Docket ID: EPA-HQ-OPP-2009-0136

EXHIBIT A

**Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry
Mitigation Measures**

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Executive Summary

On May 23, 2021, the United States Environmental Protection Agency (EPA) opened a 60-day public comment period, which was later extended for an additional 60 days, on its proposed risk mitigation procedures for sulfuryl fluoride fumigations as described in the document, *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures* (EPA-HQ-OPP-2009-0136-0105). The proposed risk mitigation procedures would require significant and extensive labeling changes for sulfuryl fluoride products registered for fumigation of residences, including Vikane® gas fumigant. EPA is proposing these procedures in response to recommendations in the Office of Inspector General's (OIG) 2016 report, *Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries from Residential Fumigations* (No. 17-P-0053).

Douglas Products organized a Sulfuryl Fluoride Advisory Panel to assess the labeling changes proposed by EPA and provide comments to EPA on the proposed changes. Panel members have expertise in residential fumigation and include representatives from fumigation companies in California, Florida, Hawaii, and other states, Vikane distributors, pest control associations, legal/regulatory advisors, and technical and commercial leaders at Douglas Products. The members of the Panel are listed in Appendix I to this document.

A summary of the assessment of this Advisory Panel of the proposed changes to five sections of the sulfuryl fluoride product labeling is as follows:

- 1. EPA proposal: *Remove the SF-ExplorIR and Interscan as approved sulfuryl fluoride clearance devices based on a laboratory evaluation conducted by the EPA Analytical Chemistry Branch (ACB).***

Advisory Panel Assessment: The Advisory Panel did not review the EPA's clearance device test as part of its charge; however, it understands that Douglas Products, and the device manufacturers have identified a number of issues with the EPA protocol, the testing itself, and EPA's interpretation of the test results, all of which will be addressed in comments to be filed with EPA by Douglas Products. In light of these issues, it is the Advisory Panel's position that the manufacturers of the sulfuryl fluoride clearance devices that EPA proposes to remove from the label should be given time to conduct additional studies to demonstrate that these devices have sufficient sensitivity to measure sulfuryl fluoride to continue to be used as clearance devices.

- 2. EPA proposal: *Add more description of warning sign features and placement to improve their durability and visibility during the fumigation process.***

Advisory Panel Assessment: Fumigators in states that regulate fumigation warning signs in any manner should be exempt from federal labeling requirements for warning signs. The preamble to the signage requirements should be revised to make clear that the label's sign requirements apply only in states that do not have their own signage requirements.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Revisions in the proposed sign formatting for states without requirements are recommended to be consistent with formatting requirements in states which already have fumigation warning sign regulations to the extent possible, as summarized below:

- 1) The applicator must post the fumigated areas with warning signs with a white background stating the following:
 - a. The signal word DANGER/PELIGRO at a minimum height of 2 inches in height, the SKULL and CROSSBONES symbol at a minimum of 1 inch in height, and “Area under fumigation, DO NOT ENTER/NO ENTREE,” all printed in color(s) contrasting with the white background.
 - b. The date of fumigation.
 - c. Name of fumigant used (minimum height ½ inch).
 - d. Name, address, and telephone number of the applicator or company performing the fumigation.
- 2) Information on warning signs must remain legible during the entire posting period.
- 3) Warning signs must be placed on the structure at or near all doors and entrances.
- 4) On tented structures, additional warning signs must be placed on the outside of the tarp so that they are clearly visible from all accessible sides, and from any direction from which the site may be approached.

The proposal that warning signs must “be placed on all seams on first floor level where two tarps are joined by the fumigator,” should be deleted because it will be confusing for state regulators to enforce. It is also redundant with the above proposed label change that warning signs are placed so they are “clearly visible from all accessible sides, and from any direction from which the site may be approached.”

3. EPA proposal: *Require a Fumigant Management Plan (FMP) that describes specific information to be documented for each fumigation.*

Advisory Panel Assessment: Based on the Advisory Panel’s review, it is reasonable to require the following categories of information to be either recorded in advance of, during, or after a fumigation, as appropriate, and modified as information is collected. Any FMP language on the new labels should make clear when each piece of information is required to be documented, and any timing requirements should not be unduly burdensome. Therefore, the information below followed by (B) would be documented before the fumigation; other information would be documented during the fumigation process. The categories of information below should be permitted to be recorded in various locations, including fumigation logs, Vikane Fumiguide® reports, employee records, state notification websites, or other documents and records where it is currently recorded in hardcopy or electronically to avoid needless duplication of effort.

- Fumigation company (B)
- Fumigation site address (B)
- Type of structure (B)
- Target pest(s) (B)
- Dosage factor
- Tarp condition
- Seal condition
- Wind (mph)
- Volume (1000 cubic feet) (B)
- Underseal

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

- Temperature
- Hours of Exposure
- Name and license number of certified applicator in charge, and name of second trained person(s) and certified applicator(s) assisting with introduction of sulfuryl fluoride and chloropicrin
- Total ounces of chloropicrin introduced
- Cylinder serial number(s) of sulfuryl fluoride applied
- Pounds of sulfuryl fluoride applied
- Date and time of fumigant release
- Date and time aeration initiated
- Name and license number of certified applicator initiating aeration
- Name of second trained person(s) and certified applicator(s) assisting with initiating aeration if two trained persons are required to be present
- Date and time final clearance testing are completed
- Name and license number of certified applicator(s) conducting final clearance testing
- Clearance device model type

The Advisory Panel concluded the remaining information proposed by EPA is not necessary to document for each fumigation site for one or more of the following reasons: it is recorded in other company records unrelated to a specific fumigation, is not available to the fumigator, is not necessary for conducting a safe and effective fumigation, is redundant, does not exist, and/or is not required or specified on the labeling and therefore would be difficult to enforce.

4. **EPA proposal: *Require specific stewardship plans by registrants to be posted on the EPA website. These plans will include initial and annual training, who must attend this training, and training content.***

Advisory Panel Assessment: The proposed definition of persons required to take the stewardship training should be changed to "All employees (including owner or licensed employee responsible for managing/supervising the fumigation operations as required by state regulations) who introduce chloropicrin and sulfuryl fluoride, reenter fumigated spaces wearing an SCBA, initiate aeration, and/or conduct final clearance testing." The proposed requirement, "For states that do not already require practical experience as part of their state certification, a field component should be included in the registrant stewardship training," needs to be deleted because it is not clear that it would legally be possible for the registrants to do this.

5. **EPA proposal: *Replace Aeration Procedures 1 and 2 with the California Aeration Plan (CAP).***

Advisory Panel Assessment: Aeration Procedures 1 and 2 must remain on the labeling because they are used in California when CAP cannot be completed or is not practical to conduct, such as aeration of small structures (e.g., detached garages, sheds, vehicles, recreational boats, recreational vehicles, shipping containers, and truck cargo containers), tape-and-seal fumigations, and indoor tarped stack fumigations.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

In addition, CAP should not be implemented as an interim labeling change. CAP is very complex and will require more time to evaluate and implement as part of the sulfuryl fluoride registration review process. It took 10 years for the California structural fumigation industry to develop CAP to meet their environmental conditions, regulatory requirements, and business practices. Fumigators in other states need the opportunity to evaluate and adapt CAP equipment for their local conditions, change state regulations that conflict with implementation of CAP, assess all the changes required by CAP to their fumigation business operations, and learn how to conduct CAP. As examples,

- CAP equipment has not been evaluated for climates with high rain and high wind.
- CAP equipment has not been evaluated for tape-and-seal fumigations.
- Some states have regulations which require two trained persons be present during the initiation of aeration, which CAP only requires one person be present. State regulators also need time to train their personnel on CAP and to change their operations for implementation and enforcement of CAP.
- Fumigators need to time to assess the following changes to their fumigation business:
 - Contracts.
 - Property owner preparation lists.
 - Pricing.
 - Sales literature.
 - Web sites.
 - Advertising.
 - Company operating procedures.
 - Internal company training procedures on aeration.
 - Fumigation vehicle equipment inventory lists.
 - Scheduling for fumigations and employee deployment.
 - Additional equipment because tarps are left on the structure for an additional day.
 - New CAP ducting and inlets.
 - Additional fumigation vehicles to carry the equipment.
 - Educate fumigation company sales and office personnel, customers, and pest control companies (i.e., prime contractors) about the new aeration procedures.
 - Inform insurance provider of the new aeration procedure, which requires more equipment and longer time with tarps on the structure.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Introduction

On May 23, 2021, the United States Environmental Protection Agency (EPA) opened a 60-day public comment period, which was later extended for an additional 60 days, on its proposed risk mitigation procedures for sulfuryl fluoride fumigations as described in the document, *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures* (EPA-HQ-OPP-2009-0136-0105). The proposed risk mitigation procedures are for sulfuryl fluoride products registered for fumigation of residences. These procedures are proposed in response to recommendations in the Office of Inspector General's (OIG) 2016 report, *Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries from Residential Fumigations* (No. 17-P-0053). The procedures are proposed to be implemented ahead of the typical mitigation phase of the current registration review of sulfuryl fluoride, and include the following labeling changes:

1. Remove the SF-ExplorIR and Interscan as approved sulfuryl fluoride clearance devices based on a laboratory evaluation conducted by EPA's Analytical Chemistry Branch (ACB).
2. Add more description of warning sign features and placement to improve their durability and visibility during the fumigation process.
3. Require a Fumigant Management Plan (FMP) that describes specific information to be documented for each fumigation.
4. Require specific stewardship plans by registrants to be posted on the EPA website. These plans will include initial and annual training, who must attend this training, and training content.
5. Replace Aeration Procedures 1 and 2 with the California Aeration Plan (CAP).

In response to the significant and extensive labeling changes proposed by EPA, Douglas Products organized a Sulfuryl Fluoride Advisory Panel. Panel members include representatives from fumigation companies in California, Florida, Hawaii, and other states, Vikane® gas fumigant distributors, pest control associations, legal/regulatory advisors, and technical and commercial leaders at Douglas Products. The Advisory Panel met remotely every week beginning June 22, 2021, to systematically review the proposed labeling changes. The Advisory Panel reviewed the proposed changes in relation to current fumigation practices, stewardship programs, and state fumigation regulations in states where residential fumigations are routinely conducted. The Advisory Panel conducted data gap analyses of existing fumigation regulations in key fumigation states, including California and Florida, and created a historical timeline of the steps required to develop and implement CAP in California. As a result of extensive review and discussion, the Advisory Panel produced the following assessment of the labeling changes proposed by EPA for sulfuryl fluoride residential fumigants.¹

¹ A residential fumigant is labeled for fumigation of residential structures, such as Vikane® gas fumigant.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Assessment

- 1. Remove the SF-ExplorIR and Interscan as approved sulfuryl fluoride clearance devices based on a laboratory evaluation conducted by the EPA Analytical Chemistry Branch (ACB).***

The Advisory Panel did not review the EPA's clearance device test as part of its charge; however, it understands that Douglas Products and the device manufacturers have identified a number of issues with the EPA protocol, the testing itself, and EPA's interpretation of the test results, all of which will be addressed in comments to be filed with EPA by Douglas Products. In light of these issues, it is the Advisory Panel's position that the manufacturers of the sulfuryl fluoride clearance devices that EPA proposes to remove from the label should be given time to conduct additional studies to demonstrate that these devices have sufficient sensitivity to measure sulfuryl fluoride to continue to be used as clearance devices.

- 2. Add more description of warning sign features and placement to improve their durability and visibility during the fumigation process.***

Additional requirements for warning sign features and placement must not override or conflict with state requirements already in place. States that have created their own warning sign/placarding requirements should be permitted to enforce those requirements as they currently exist and are understood by regulatory authorities and fumigators in those states. The states have spent substantial time designing warning sign requirements that make sense in view of local requirements and fumigators in those states have obtained the necessary signs and undergone the necessary training to implement those programs. EPA's preamble to the warning signs section in the Proposed Labeling Changes section of the mitigation measures document appears to be consistent with this, as it states that the warning sign requirements specified therein apply "unless otherwise specified by state regulations." The Advisory Panel proposes additional language to clarify that understanding shown in Table 1.

The Advisory Panel conducted a data gap analysis of fumigation warning signs requirements in states, including California, Florida, Texas, and Georgia, that regulate the formatting and placement of these signs. Based on this analysis, the following revised language is proposed for label language that would apply to warning sign formatting and placement in states that do not currently have warning sign requirements:

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

1. The applicator must post the fumigated areas with warning signs with a white background stating the following:
 - a. The signal word DANGER/PELIGRO at a minimum height of 2 inches in height, the SKULL and CROSSBONES symbol at a minimum of 1 inch in height, and “Area under fumigation, DO NOT ENTER/NO ENTRE,” all printed in color(s) contrasting with the white background.
 - b. The date of fumigation.
 - c. Name of fumigant used (minimum height ½ inch).
 - d. Name, address, and telephone number of the applicator or company performing the fumigation.
2. Information on warning signs must remain legible during the entire posting period.
3. Warning signs must be placed on the structure at or near all doors and entrances.
4. On tented structures, additional warning signs must be placed on the outside of the tarp so that they are clearly visible from all accessible sides, and from any direction from which the site may be approached.

The recommended revisions in warning sign formatting and placement are made to be consistent with regulations in numerous states and current language in the labeling, including the Manual, for Vikane® gas fumigant (Table 1). Warning signs following these regulations provide appropriate public warning and are readily enforceable by state lead agencies. As noted above, fumigators in states that regulate the formatting and placement of fumigation warning signs should be exempt from the labeling requirements for sign formatting and placement on the EPA-approved labeling.

3. Require a Fumigant Management Plan (FMP) that includes specific information to be documented for each fumigation.

The Advisory Panel conducted a data gap analysis of state fumigation regulations in California and Florida that require comprehensive documentation of fumigations conducted using residential fumigants. Both states have extensive experience with regulatory enforcement for safe and effective use of residential fumigants. This information has been found to be necessary and helpful for regulatory compliance monitoring. Based on the Advisory Panel’s review, it is reasonable to require the following categories of information to be either recorded in advance of, during, or after a fumigation, as appropriate, and modified as information is verified. The fumigator will verify information on site, such as structure volume, to calculate the dosage and dose prior to fumigant introduction. Any FMP language on the new labels should make clear when each piece of information is required to be documented, and any timing requirements should not be unduly burdensome. Therefore, information below followed by (B) would be documented before the fumigation; other information would be documented during the fumigation process. The categories of information below should be permitted to be recorded in various locations, including fumigation logs, Vikane Fumiguide® reports, employee records, state

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

notification websites, or other documents or records where it is currently recorded in hardcopy or electronically to avoid needless duplication of effort.

General information:

- Fumigation company (B)
- Fumigation site address (B)
- Type of structure (B)

Dosing calculations:

- Target pest(s) (B)
- Dosage factor
- Tarp condition
- Seal condition
- Wind (mph)
- Volume (1000 cubic feet) (B)
- Underseal
- Temperature
- Hours of Exposure

Introduction of chloropicrin and sulfuryl fluoride:

- Name and license number of certified applicator in charge, and name of second trained person(s) and certified applicator(s) assisting with introduction of sulfuryl fluoride and chloropicrin
- Total ounces of chloropicrin introduced
- Cylinder serial number(s) of sulfuryl fluoride applied
- Pounds of sulfuryl fluoride applied
- Date and time of fumigant release

Initiation of aeration:

- Date and time aeration initiated
- Name and license number of certified applicator initiating aeration
- Name of second trained person(s) and certified applicator(s) assisting with initiating aeration if two trained persons are required to be present

Final clearance testing:

- Date and time final clearance testing are completed
- Name and license number of certified applicator(s) conducting final clearance testing
- Clearance device model type

Table 2 reviews the additional information EPA is proposing be included in FMPs, and why this information is not necessary to document for each residential fumigation site using sulfuryl fluoride. Reasons why this additional information is not necessary include one or more of the following: it is recorded in other company records unrelated to a specific fumigation, is not available to the fumigator, is not necessary for conducting a safe and effective fumigation, is redundant, does not exist, and/or is not required or specified on the labeling and therefore would be difficult to enforce.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Because fumigation companies transport the residential fumigant and chloropicrin to the fumigation site, they must comply with extensive Department of Transportation (DOT) requirements for transporting hazardous materials. Fulfilling DOT requirements also fulfill FMP requirements for accident prevention and emergency response preparation. DOT requirements include the following:

1. A written security plan.
2. Training of all fumigation personnel responsible for transporting, storing, and handling these hazardous materials.
3. Requirements for the driver of the vehicle transporting the fumigant and chloropicrin.
4. Requirements for the vehicle transporting the fumigant and chloropicrin.

To develop a security plan for residential fumigants and chloropicrin, the fumigation company must assess all the potential risks during storage and transport (172.802 - Components of a security plan, Appendix II). The written plan must address these identified, potential risks, including procedures 1) to prevent unauthorized personnel from accessing hazardous materials and 2) for various emergency response scenarios. Fumigation employees responsible for storing, transporting, and/or working with these hazardous materials at fumigation site must be trained on the parts of the security plan they must know for their fumigation-related activities.

The DOT requires employees complete the Hazardous Material Employee Training (49 CFR § 172.700 HM-232, Appendix III). The Certified Operator, “second training person,” and driver of the vehicle transporting the residential fumigant and chloropicrin are considered Hazardous Material Employees and must receive this training. Part of this training on hazards associated with sulfuryl fluoride and chloropicrin, personal protective equipment to prevent overexposure, first aid, and proper fumigant cylinder handling are in the annual registrant-provided stewardship training. Additional fumigation company-specific training on the security plan is required, as described above. All training must be documented.

There are rigorous requirements for the driver of the vehicle transporting the fumigant and chloropicrin. The driver must complete the following:

1. Obtain a commercial driver’s license (CDL) with a Hazardous Materials (HazMat) Endorsement. This requires taking a test and passing with a minimum required score.
2. Obtain a medical qualification certificate. The driver must be medically certified as physically qualified to operate a commercial vehicle and have the certification on them when driving the truck when transporting the fumigant and chloropicrin.
3. Successfully pass drug and alcohol testing.
4. Successfully pass a background check by the Transportation Security Administration.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

There are also many requirements for the vehicle transporting the fumigant and chloropicrin, including:

1. Placarding when carrying sulfuryl fluoride cylinders (Class 2 Inhalation Hazard) and chloropicrin containers (Class 3 Inhalation Hazard) (49 e-CRF 172.400) (Fig. 1 to left).



2. Transporting the sulfuryl fluoride cylinders and chloropicrin containers in a separate air space from passengers, under lock and key, upright, and secured so they do not shift during transport (Fig. 2)



Fig. 2. Proper transportation of cylinders of Vikane[®] gas fumigants (left) and chloropicrin container in HAZMAT packaging (center and right).

3. The driver must have a shipping paper with Emergency Response Information Provider (ERIP) contact phone number (Fig. 3). The ERIP must have knowledge of the emergency response procedures for sulfuryl fluoride and chloropicrin, such as first aid, spill control, fire-fighting, etc. if contacted during an emergency. Douglas Products has a program that if the only hazardous materials a fumigation truck transports is Vikane[®] gas fumigant and Douglas Products branded chloropicrin, the fumigation company can register each year to use the Douglas Products ERIP phone number on their shipping

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

paper. The ERIP must know each company that has registered for their service and what hazardous materials this company transports.

SHIPPING PAPER (Vehicle Manifest)							
Company:		Date:		Emergency Response Information: DOUGLAS PRODUCTS EMERGENCY RESPONSE: 1.844.845.3129 OPTION 2 INFOTRAC			
Address:		Driver:					
City, ST, ZIP:		Vehicle:					
HM	BASIC DESCRIPTION (UN#/PSN/Class/Packaging Group/ Additional Info per 49CFR172.203)	SIZE & TYPE OF PACKAGE	NUMBER OF PACKAGES	TOTAL QUANTITY & UNITS	PLACARDS REQUIRED	NA ERG EMERGENCY GUIDE #	PRODUCT NAME
X	UN2191/SULFURYL FLUORIDE/2.3/ POISON INHALATION HAZARD/ ZONE D/MARINE POLLUTANT	125 lb. cylinder			Inhalation Hazard 2	123	Vikane® gas fumigant
X	UN1580/CHLOROPICRIN/6.1/PGI/ POISON INHALATION HAZARD/ ZONE B/MARINE POLLUTANT	1 pint bottles			Inhalation Hazard 6	154	Chloropicrin

Fig. 3. Shipping paper exemplified for Vikane gas fumigant and chloropicrin. Fields in blue are filled in the fumigation company/driver at the beginning of each day.

4. The driver must have emergency response information as required by 49 eCFR 172.602. This would include the SDS for the residential fumigant and chloropicrin.
5. A fire extinguisher and stopped vehicle warning device (reflective triangles) must be on the vehicle.
6. Records of vehicle maintenance, repairs, annual inspection, and driver inspections must be retained. At the end of each day driving, the driver must create a report reviewing vehicle parts and accessories such as service brakes, steering mechanism, lighting devices, etc. The report must identify the vehicle and list any defect which would affect the safety of the vehicle. The driver must sign the report. Prior to that vehicle being used again, any defects listed that would affect the safety of the vehicle must be repaired.

As a result of transporting residential fumigants, fumigators using these fumigants have significant documentation, training, and testing as part of the overall plan to prevent accidents, identify appropriate emergency procedures, and demonstrate compliance with safety requirements. This is unlike soil or non-soil commodity fumigations, where the fumigant is typically delivered by common carrier directly to the fumigation site. For these fumigators who are not transporting the fumigant, they do not need to comply with the additional training, written plans, and testing required by DOT which fulfill many components of an FMP.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

- 4. Require specific stewardship plans by registrants to be posted on the EPA website. These plans will include initial and annual training, specify who must attend this training, and training content.**

Overall, the requirements for proposed registrant-provided initial and annual stewardship training are similar in content to what is currently provided by Douglas Products for Vikane[®] gas fumigant. Changes to the EPA-proposed definitions of customers and persons required to take the sulfuryl fluoride registrant-provided stewardship training are requested and the reasons for these changes are described in Table 3.

In addition, the following proposed requirement must be deleted, "For states that do not already require practical experience as part of their state certification, a field component should be included in the registrant stewardship training." It is not clear that it would legally be possible for the registrants to do this. Registrants and potential trainees do not have the authority to access fumigation sites to conduct this type of hands-on training. For liability reasons, only employees of a licensed fumigation company can work with equipment, including tarps, sulfuryl fluoride, and chloropicrin at fumigation sites. EPA will need to work with state lead agencies to require practical experience as part of the state certification process.

As an example, the University of Florida (UF) School of Structural Fumigation at the Ft. Lauderdale Research and Education Center, student participants can only view the fumigation process at the Hurricane House on campus. Employees of a licensed fumigation company conduct the preparation, tarping, chloropicrin and sulfuryl fluoride application, aeration, and clearance testing of the Hurricane House. Students of this program cannot conduct these activities for liability reasons. The Florida Department of Agriculture and Consumer Services (FDACS) offers certified operator and special identification cardholder exams for fumigation the day after this program ends. Attendees of this program who want to take either of these certification exams must obtain their practical work experience at other fumigations before coming to the UF School of Structural Fumigation.

The Douglas Product stewardship policy requires companies that are newly approved to use Vikane to have a Douglas Products representative on site when the company conducts its first fumigation using Vikane. Before this occurs, fumigation employees must have received their initial Vikane stewardship training, and the company must have documentation of purchasing the necessary clearance device(s), safety equipment (including SCBA), and other equipment required to fumigate.

A minor modification is recommended to the following statement in the EPA proposed labeling language about the product stewardship plan as follows: "..... This plan is also available at EPA's website for [Product name]. ~~and~~ [Product name] must only be used by application personnel that have satisfactorily completed the [product name] stewardship

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

program, including the initial and annual training requirements.” This revision clarifies that only application personnel who have completed the product stewardship program can use the fumigant.

5. *Replace Aeration Procedures 1 and 2 with the California Aeration Plan (CAP).*

Reviewing and modifying aeration procedures was not one of the EPA OIG recommendations. For this reason and all the reasons outlined below, implementing CAP needs to be evaluated as part of the sulfuryl fluoride registration review process and not implemented as an interim labeling change.

- a. Aeration Procedures 1 and 2 cannot be removed from the sulfuryl fluoride labeling because they are used in California when CAP cannot be completed or is not practical.

Aeration Procedures 1 or 2 are used when CAP cannot be completed due to a tarp blow open or equipment failure, and are written into CAP as follows:

“If Tenting Blows Open: If the job is finished, it can be resealed and aerated using the aeration method described here. If the job is finished and cannot be resealed, tarpaulins can be removed. Aeration must be completed using Aeration Procedure 1 or Aeration Procedure 2 from the sulfuryl fluoride product labeling.

If the job is not finished, it can be resealed, more fumigant added if necessary, and the aeration method described here used for aeration. If the fumigation cannot be resealed and is to be rescheduled for a later date, tarpaulins can be removed. Aeration must be completed using Aeration Procedure 1 or Aeration Procedure 2 from the sulfuryl fluoride product labeling.”

Aeration Procedures 1 or 2 are used when CAP is not practical to be used at a variety of fumigation sites. These include:

- Small buildings, such as detached garages and sheds, that do not have a man door or window.
- Small structures such as vehicles, recreational boats, recreational vehicles, shipping containers, and truck cargo containers (Fig. 4). For small structures, including buildings, the CAP duct fan draws in tarps so tightly that the tarps and the fumigated structure can be damaged.

Sulfuryl Fluoride Advisory Panel Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures



Fig. 4. Examples of small, tarped structures which would be difficult and not practical to aerate using CAP (photos top left clockwise); recreational boat, car, storage pod.

- For tape-and-seal fumigations, and for part tarp/part tape-and-seal fumigations.
- Tarped stack fumigations within a building, when fumigating cabinets, furniture, flooring, and other items (Fig. 5).



Fig. 5. Tarped pews in church fumigated for control of drywood termites (left, photo by Rudi Scheffrahn), tarped hardwood flooring fumigated for drywood termite control (right).

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Examples of tarped stack fumigations within a building include the following.

- Japanese screens, with wood frames infested with powderpost beetles, were fumigated in a temporary fumigation chamber, consisting of a PVC frame covered with polyethylene sheeting, in the Los Angeles County Museum of Art in California (Fumigation Update 1992).
- A wooden, 3,000 ft³ computer driven Kaleidoscope exhibit, infested with drywood termites, was tarped and fumigated within the 3 million ft³ Museum of Science and Industry in Ft. Lauderdale, Florida (Fumigation Update 1994).
- The 4.2 million specimen collection of Lepidoptera at the McGuire Center, Florida Museum of Natural History in Gainesville, Florida (Thoms and Mensing 2006, Fig. 6).



Fig. 6. McGuire Center (photos left to right); museum displays, butterfly collection drawer, tarped stack fumigation of lepidopteran collection.

- b. The California structural fumigation industry had ten years to develop CAP, a complicated aeration procedure, to meet their state regulatory requirements, environmental conditions, and business practices.

At least eight California fumigation companies worked with technical experts from Dow AgroSciences to test and refine the CAP procedures on actual fumigations beginning in 2000 (CAP timeline, Appendix IV). The executive committee of the Pest Control Operators of California (PCOC), the PCOC fumigation and fumigation enforcement committees, Branch 1 fumigators, Branch 3 inspectors, the three fumigator groups in California – San Diego, southern California and northern California, distributors and Dow AgroSciences wrote many drafts of the proposed CAP language, beginning in 2004. This work was done in preparation for anticipated changes by EPA to the sulfuryl fluoride product labeling of lowering the clearance limits from 5 to 1 ppm, which occurred in 2006.

In June 2008, the California Department of Pesticide Registration (CDPR) notified sulfuryl fluoride registrants that it was placing sulfuryl fluoride products intended for structural (i.e. residential) fumigation into reevaluation. Registrants were required by CDPR to submit monitoring data to demonstrate that aeration plans for structural fumigations were protective of workers and occupants to 1 ppm. In response to this notification in September 2008, Dow AgroSciences submitted CAP research conducted in 2004-2005

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

which documented CAP provides protection to 1 ppm for workers, bystanders, and occupants. After this submission, the California fumigation industry had nearly 1.5 years to complete revising CAP language and make other preparations before PCOC submitted the CAP language to CDPR for approval in April 2010. When CDPR approved CAP in May 2010, PCOC has already prepared industry training and communications about CAP. California fumigators had six months to transition to CAP. During the transition period, fumigators were allowed to use the current aeration procedure (Tarpaulin Removal Aeration Plan, TRAP) or CAP as they acquired required CAP equipment, learned how to conduct CAP, and transitioned their business operations to conduct CAP.

California fumigators had time to develop CAP and write the step-by-step description of CAP to ensure this aeration procedure would be practical for California fumigators and would not conflict with California regulations. They developed the robust CAP equipment and procedures suitable for California environmental conditions. Fumigators in other states need the opportunity to evaluate and adapt CAP equipment for their local conditions, change state regulations that conflict with implementation of CAP, assess all the changes required for their fumigation business operations, and learn how to conduct CAP, as discussed below.

- c. CAP duct and cover need modification and evaluation for high rain and high wind environments.

Field trials of CAP in Florida conducted by Douglas Products, with the assistance of licensed fumigation companies, have confirmed that rain events can interfere with the proper functioning of CAP equipment. During the fumigation, rainwater can accumulate and depress the CAP duct cover, making the cover difficult to remove as intended when the fumigator at ground level pulls a strap to peel back the cover. During aeration, rain can accumulate in the bottom of the duct, restricting airflow through the duct and potentially interfering with the duct fan operation. Therefore, the CAP duct and duct cover need to be modified and evaluated for use in high rain conditions.

In addition, CAP equipment needs to be evaluated for high wind environments, particularly in Hawaii. In Hawaii, high winds are a daily occurrence and fumigators often try to limit the time tarps remain on buildings to prevent damage to the tarps and the building.

- d. CAP equipment has not been evaluated for tape-and-seal building fumigations.

Tape-and-seal is conducted for many reasons, including:

- Fumigant confinement is better with a tape-and-sale than using tarps. This includes buildings with exterior walls or facades made of gas-resistant materials, such as concrete, brick, tile, stucco, metal, and fiberglass (Fig. 7).

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures



Fig. 7. Tape-and-seal (photos left to right); truck cargo containers (two methods of tape-and-sealing), concrete block garage.

- Tarping would damage the structure. This is of particular concern for historical buildings, such as those with roofs of fragile tile or wood shingles or protruding decorative sculptures, that could be damaged by tarp placement and movement during the fumigation. One example is the fumigation of the art studio of the historic Bonnet House in Ft. Lauderdale, Florida (Thoms et al. 1998). The art studio had a wood shingle roof, which may have been damaged by the tent crew walking on it to place tarpaulins. The exterior concrete block walls of the art studio provided an effective barrier to fumigant leakage.
- Tarping would cover valuable exterior plants attached to or directly adjacent to the building and these plants would die due to exposure to sulfuryl fluoride.
- Tape-and-seal provides a cost savings to the consumer, especially for bed bug fumigations conducted in states in which fumigation tarping is infrequently conducted. Tarping is unnecessary for many bed bug fumigations because the bed bugs, unlike wood-destroying insects, do not infest exterior facia, soffits, door and window frames, roof sheathing, attics, and crawlspaces. As a result, tape-and-sealing can effectively confine sulfuryl fluoride in the areas infested by bed bugs. Fumigators in these areas therefore do not need to invest in expensive tarpaulins, clamps, snakes, and other tarping materials and supplies.
- Tape-and-seal can be safer for a fumigator to conduct in conditions such as a steeply sloped roof, multi-story , or a building located on a slope. This is particularly true in areas in which tarping is infrequently done and fumigators do not have training or experience in installing tarps using man-lifts, cranes, rappelling harnesses, or similar equipment. Examples are a 3-story New Jersey apartment complex (Fumigation Update 2007), the 8-story Samuel G. Hubert Apartments in Reading, Pennsylvania (Miler and Fisher 2008), and the 18-story Biltmore Towers in Dayton, Ohio (Fumigation Update 2010, Fig. 8), which were all fumigated for bed bug control.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures



Fig. 8. Biltmore Towers (photos left to right); 18-story building, sealing garage entry, bed bugs infesting a bed cover (photos by Stoy Hedges).

- Tape-and-seal is used when fumigating one room or section of a building or one or more units in a multi-unit building. Examples of this are the fumigation of; 18 units within a 17-story condominium in Ft. Lauderdale, Florida for control of drywood termites (Fumigation Update 1993), and the custom-made, decorative wood ceiling of the Palm Beach County Convention Center for control of powderpost beetles (Fumigation Update 2012).
- e. Changes are required in some states' regulations to enable CAP to be implemented as tested and intended.

Florida regulations require two trained persons be present at the initiation of aeration (5E-14.108 (2), Florida Chapter 5E-14, Entomology, Pest Control Regulations). Texas regulations require two trained persons be present during the initial aeration process (Title 4, Part 1, Chapter 7H, Division 5, Rule 7.178d(2)0. CAP only requires one person to initiate aeration.

- f. Fumigators outside of California need time to learn how to use CAP.

This includes classroom and field training, and time to purchase and practice using the equipment. Sales personnel and pest control companies selling fumigation also need to be educated on this procedure. California regulators allowed fumigators six months to adopt CAP after written procedure for CAP were finalized. This was after ten years of work done by the California fumigation industry to develop CAP (see b above) which has not occurred in any other state. CDPR allowed the existing aeration procedure at that time (Tarpaulin Removal Aeration Plan, TRAP) and CAP to be conducted for six months during the transition period. This transition period would not be possible if CAP was required on the federal labeling because state regulators are required to enforce the EPA product labeling.

- g. Before implementing CAP, fumigation companies must conduct many time-consuming assessments and notifications.

Review and revise information in many documents and media platforms:

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

- Contracts with consumers and companies subcontracting fumigations.
- Property owner preparation lists, such as adding removal of items potentially damaged by CAP (e.g., external lights, globes, cameras, and other features that extend beyond the roof eaves).
- Pricing.
- Sales literature.
- Web sites.
- Advertising.
- Company operating procedures.
- Internal company training procedures on aeration.
- Fumigation vehicle equipment inventory lists.
- Scheduling for fumigations and employee deployment at fumigations.

Determine what additional supplies and equipment must be purchased:

- Additional equipment because tarps are left on the structure for an additional day. This includes more tarps, fans, clamps, sand snakes, water snakes, signs, secondary locks, introduction hose, and chloropicrin trays.
- New CAP ducting and inlets.
- Additional fumigation vehicles to carry the equipment.

Determine who to educate and inform about CAP:

- Educate fumigation company sales and office personnel, customers (realtors, property management companies, school districts, etc.) and pest control companies (i.e., prime contractors) about the new aeration procedures.
- Inform insurance provider of the new aeration procedure, which requires more equipment and longer time with tarps on the structure. (There possibly could more damage to structural elements due to tarps constricting on the structure for at least 12 hours during CAP.)

h. State regulators need time to train their personnel on CAP and to change their operations for CAP.

These changes include revising inspection forms, standard operating procedures, enforcement response guidelines, judgements, fines, and information for consumers. Financial limitations in state budgets are currently an issue due to on-going recovery from Covid-19 pandemic.

i. Sufficient supplies do not currently exist for all fumigation equipment needed to implement CAP in all states.

This includes replacing existing aged inventory in all states plus doubling the fumigation equipment used by fumigators outside of California. CAP requires specialized equipment (CAP duct, duct cover, and inlet devices) and more of all fumigation

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

equipment (tarps, snakes, clamps, fans, introduction hoses, etc.). This is because this equipment remains installed at the fumigated structure for two days rather than one day. In addition, tarps age more rapidly and are replaced more often with CAP, because they remain on each structure for at least two days, rather than one day, so there is more deterioration from UV light and heat, and more abrasion from wind. Significant disruptions in the supply chain have occurred due to trade tariffs and Covid-19 in the past two years have affected the ability of fumigators to obtain fumigation equipment. Supplies of materials needed to implement CAP, such as tarps, are limited and on back order.

Therefore, CAP mitigation strategies are complex and will require more time to evaluate and implement as part of the sulfuryl fluoride registration review process, and not as an interim labeling change.

Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Table 1.
Rationale for Revisions to EPA Proposed Labeling Requirements for Fumigant Warning Signs.

EPA Proposed Label Language for Warning Signs (Language to Change in Red)	Suggested Revision if Needed (Revisions underlined)	Rationale
<p style="color: red;">Unless otherwise specified by state regulations:</p>	<p><u>The requirements below apply only in states that have not established state-specific warning sign requirements for fumigation operations. Applicators in states that have established warning sign requirements, must follow those existing state requirements instead of the requirements below. In states that have not established warning sign requirements, the following requirements shall apply:</u></p>	<p>This change is to clarify EPA’s apparent recognition with the original language that state requirements would continue to apply where they exist. Such requirements have been developed to provide appropriate public warning and are readily enforceable by state lead agencies and understood by fumigators in the state. The change is intended to make clear that there is no “element by element” analysis, but rather the state’s program will apply in full if one exists.</p>

Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Table 1
Rationale for Revisions to EPA Proposed Labeling Requirements for Fumigant Warning Signs (cont'd).

EPA Proposed Label Language for Warning Signs (Language to Change in Red)	Suggested Revision if Needed (Revisions underlined)	Rationale
The signal word DANGER/PELIGRO, the SKULL and CROSSBONES symbol, and the statement "Area under fumigation, DO NOT ENTER/NO ENTRE" - all minimum height 2 inches and printed in red.	The signal word DANGER/PELIGRO at a minimum height of 2 inches in height, the SKULL and CROSSBONES symbol at a <u>minimum of 1 inch in height</u> , and "Area under fumigation, DO NOT ENTER/NO ENTRE, " <u>all printed in one or more colors contrasting with the white background.</u>	The revised height requirements are currently in multiple state regulations. Georgia specifies two colors, red and black, for different statements on the warning sign.
The date of fumigation.	None	Currently a requirement in state warning sign regulations and the Vikane® gas fumigant label.
Brand name of fumigant used (minimum height ½ inch).	Name of fumigant used (minimum height ½ inch).	States require the name of the fumigant, but do not specify the brand name.
Name, address, and telephone number of the applicator.	Name, address, and telephone number of the applicator <u>or company performing the fumigation</u>	California requires the name of the company, not the applicator, performing the fumigation.

Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Table 1.
Rationale for Revisions to EPA Proposed Labeling Requirements for Fumigant Warning Signs (cont'd).

EPA Proposed Label Language for Warning Signs (Language to Change in Red)	Suggested Revision if Needed (Revisions underlined)	Rationale
Warning signs must be constructed of material that enables wording to remain legible and visible for the duration of the fumigation and aeration periods.	<u>Information on warning signs must remain legible during the entire posting period.</u>	Currently a requirement in the Structural Fumigation Manual for Vikane® gas fumigant, which is part of the labeling.
Warning signs must be placed on the structure at or near all doors and entrances.	None	Currently a requirement in state warning sign regulations and the Vikane label.
On tented structures, additional warning signs must be placed on the outside of the tarp so that they are clearly visible from all accessible sides, and from any direction from which the site may be approached.	None	Currently this is a requirement in California regulations, not in other states or the Vikane label. Nonetheless, this is a commonsense definition of where to place signs on a structure.
Must be placed on all seams on first floor level where two tarps are joined by the fumigator.	Delete	Unnecessary language with the requirement to place signs so they are visible upon approach. This requirement could be confusing for state inspectors who may not be able to determine where two tarps are joined together versus a "false" seam. A false seam is where material from one tarp is tucked and clamped to better fit the tarp to the enclosed structure.

Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Table 2.

Why Certain Proposed FMP Information is Not Necessary to Document for Each Fumigation Site for SF Residential Fumigations.

EPA proposed FMP information to document for each fumigation site	Available in other documents		Reason(s) for not documenting for each fumigation site
	Yes	No	
Posting signs - how many signs, indicate placement		X	1. Warning sign requirements are addressed in current labeling, state regulations, and EPA proposed additional warning sign requirements. 2. Warning sign placement compliance easily enforced by inspection.
Dosing calculator used		X	Not necessary because fumigant dose calculation tool is mandated by product labeling (e.g., for Vikane®, Fumiguide® Application). Dosing cannot be calculated by any other means.
Relative humidity, number of fans, fan amps, fumigant HLT		X	Not used by the fumigator to calculate the sulfuryl fluoride dose.
Date and time of arrival [of crew to prepare the structure for fumigation]		X	Irrelevant. The crew may arrive and take a lunch break before beginning to work. Crew members may arrive at different times to assist at the fumigation site, including to deliver equipment.
List crew members present during introduction of chloropicrin and fumigant		X	Only the names of the certified applicator and "second trained person" need to be documented for compliance with label requirements for two trained persons present during introduction of chloropicrin and the fumigant. Requiring additional crew members to be listed creates enforcement burden with no corresponding benefit. Crew members may be on site who are only involved in miscellaneous tasks unrelated to fumigation introduction (e.g., delivering or picking up equipment and supplies, moving equipment, etc.).
List credential numbers of crew members present during introduction of chloropicrin and fumigant	X		"Credential numbers" not standard terminology for fumigator licensing. Only the certified applicator in charge (or SPID in Florida) has a license number. Other crew members do not have license (i.e., credential) numbers.

Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Table 2. (Cont'd)

Why Certain Proposed FMP Information is Not Necessary to Document for Each Fumigation Site for SF Residential Fumigations.

EPA proposed FMP information to document for each fumigation site	Available in other documents		Reason(s) for not documenting for each fumigation site
	Yes	No	
List phone numbers of crew members present during introduction of chloropicrin and fumigant	X		Employee contact information is documented in other fumigation company records.
Number of chloropicrin introduction sites		X	The fumigator determines the number the chloropicrin introduction sites based on numerous factors, including size of the fumigated space, room configuration, number of levels (floors), fan placement, and amount sorptive material in each room. For a given fumigation site, there is a range in the number of chloropicrin introduction sites based on how the fumigator sets up fans to introduce Vikane® gas fumigant and for air circulation. That is why fumigant dose application tool (i.e., the Vikane Fumiguide®) does not specify the number of chloropicrin application sites. Therefore, there is no value for regulatory compliance or enforcement to list the number of chloropicrin introduction sites.
Ounces of chloropicrin per introduction site		X	Since the number of chloropicrin application sites varies (see above) and is not calculated by the fumigant dose calculation tool, documenting the amount of chloropicrin applied per introduction site will be variable and not enforceable for regulatory compliance. Note: The range in total amount of chloropicrin applied is determined by the fumigant dose application tool. Therefore, documenting the total amount of chloropicrin applied is appropriate for regulatory compliance and enforcement.
List crew members present during initiation of aeration		X	For reasons previously described, only the names of the certified applicator and "second trained person " need to be documented for compliance with label requirements for two trained persons present during the initiation of aeration.

Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Table 2. (Cont'd)

Why Certain Proposed FMP Information is Not Necessary to Document for Each Fumigation Site for SF Residential Fumigations.

EPA proposed FMP information to document for each fumigation site	Available in other documents		Reason(s) for not documenting for each fumigation site
	Yes	No	
List credential numbers of crew members present during initiation of aeration		X	"Credential numbers" not standard terminology for fumigator licensing. Only the certified applicator (and the special identification cardholder in Florida) has a license number. Other crew members do not have license numbers.
List phone numbers of crew members present during initiation of aeration	X		Employee contact information is documented in other fumigation company records.
Crew arrival time [for aeration]		X	Irrelevant, for reasons previously described.
Time seal broken		X	The initiation of aeration begins when the seal of a fumigated site is broken (i.e., opened). Because the date and time of when aeration is initiated will be documented, it is unnecessary and redundant to document when the seal is broken.
Monitoring: yes or no check box	Separate data file		Monitoring is not a label requirement.
If yes: location, equilibrium readings, interim readings, terminal readings, hours elapsed between readings, actual HLT, correction information	Separate data file		<ol style="list-style-type: none"> 1. Because monitoring is not a label requirement, monitoring data may not be archived even when monitoring is conducted. 2. The format of any archived monitoring data depends upon the type of monitoring device used.

Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Table 2. (Cont'd)

Why Certain Proposed FMP Information is Not Necessary to Document for Each Fumigation Site for SF Residential Fumigations.

EPA proposed FMP information to document for each fumigation site	Available in other documents		Reason(s) for not documenting for each fumigation site
	Yes	No	
Clearance device: Information on the way the device was calibrated.		X	For sulfuryl fluoride clearance devices (SF-ExplorIR, CLIRcheck, FumiSpec Lo) which can only be serviced by authorized service providers, the fumigator does not have this information (i.e., it is not in the User Manual).
Emergency preparedness/response measure: Provide information in case of an emergency, including the hospital nearest to the site.	X		This is a relic from soil fumigation FMPs and is not necessary for residential fumigants. Fumigators using residential fumigants call 911 in case of emergency. The benefits of calling 911 are that paramedics can provide oxygen and first aid enroute to the emergency response center, know the closest emergency response center, and get priority entry (i.e., bypass the waiting room.)
"Prior to fumigating, the certified applicator supervising the fumigation must verify that a site-specific fumigation management plan (FMP) exists. The FMP is intended to ensure a safe and effective fumigation. The certified applicator supervising the fumigation must ensure that the FMP is up-to-date and applicable to the fumigation before it takes place."			This needs to be reworded because most of the documentation required is recorded during the fumigation process, and not before the fumigation. Soil and commodity fumigations are repeated at the same site and may be complex sites, such as food processing facilities. In these cases, development of a site-specific FMP before the fumigation is useful. In contrast, residential buildings and other non-industrial buildings are very similar in features that would affect how the fumigation is conducted. If a fumigation using a residential fumigation is repeated at a given building, it would typically occur years later and likely be conducted by another fumigation company. Therefore, a site-specific FMP developed before the fumigation is not necessary or useful for residential fumigants.

Sulfuryl Fluoride Advisory Panel
Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Table 3.
Reasons for Requested Changes in Definition of Customers and Persons Required to Take the Sulfuryl Fluoride Registrant-Provided Stewardship Training.

EPA Proposed Language	Requested Change	Reason(s) for Change
<p>Customers: including any person, partnership, firm, corporation, or other business entity engaged in the business of structural pest control using fumigants.</p>	<p>Customers: including any person, partnership, firm, corporation, or other business entity that purchase and apply the registrant’s sulfuryl fluoride product.</p>	<ol style="list-style-type: none"> 1. The registrants only know the companies that purchase their fumigants. They have no records or access to records of companies that only sell fumigation. 2. Training for prime contractors (a pest control company that sells the fumigation and subcontracts another pest control company to conduct the fumigation) is needed, but is different from registrant stewardship training provided to the fumigators. Fumigation training for prime contractors can be provided by other numerous other sources, including pest control associations, Universities, and distributors, in addition to the registrants.
<p>Persons required to take the sulfuryl fluoride registrant-provided stewardship training: "Fumigation employees: including any person directly involved in fumigating a residential structure, including but not limited to the setup of a fumigation site to meet label and state requirements, the release of fumigant, the initiation of aeration, and the clearance of a structure after fumigation. o Certified Applicators – any person who is licensed or certified by their respective state to oversee and/or manage fumigations. o Handlers - any person who is licensed, certified, or otherwise permitted by their respective state to assist in the application of fumigants under the supervision of a Certified Applicator.</p>	<p>All employees (including owner or licensed employee responsible for managing/supervising the fumigation operations as required by state regulations) who introduce sulfuryl fluoride, reenter fumigated spaces wearing an SCBA, initiate aeration, and/or conduct final clearance testing.</p>	<ol style="list-style-type: none"> 1. The proposed language is too broad in stating, "any person ...including but not limited to the set-up of the site to meet label and state requirements," and could be interpreted to include workers who have no responsibility for release of fumigant, the initiation of aeration, and the clearance of a structure after fumigation. 2. The proposed language does not require licensed persons who responsible for managing fumigation operations to attend stewardship training. These persons have licensing requirements for regulatory compliance in company use of fumigants. Therefore, these persons need to understand fumigant labeling requirements so they can appropriately manage the fumigation operations to meet these requirements.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

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Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Appendix I

Members of the Sulfuryl Fluoride Advisory Panel

Convened by Douglas Products to Develop Comments for Submission to EPA

Sulfuryl Fluoride Advisory Panel

Members:

Heidi Aguilar, Branch Manager, Your Way Fumigation, Anaheim, CA
John Munoz, President, First Class Fumigation, San Jose, CA
John Sansone, President, Cardinal Professional Products, Anaheim, CA
Jon Montalbo, Owner, Aloha Termite & Pest Control, Wahiawa, HI
Lee Whitmore, President, Quality Pest Services, Anaheim, CA
Nate Tamialis, Regional Director – West, Vesperis, Commerce, CA
Sean Brantley, Vice President, Emory Brantley & Sons Termite and Pest Control Inc., Pinellas Park, FL
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David Moore, Manager of Technical Services, Dodson Brothers Exterminating Co. Inc., Lynchburg, VA
Suzanne Graham, Director of Government Affairs, Massey Services, Orlando, FL, and President, Florida Pest Management Association
Travis Swope, President/CEO, Griffin Pest Management, Santa Ana, CA
Greg Lohman, President, Above and Beyond Pest Control, Lake Worth, FL
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Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Appendix II.

172.802 - Components of a security plan (Title 49: Transportation

Part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements and Security Plans, Subpart I—Safety and Security Plans).

(a) The security plan must include an assessment of transportation security risks for shipments of the hazardous materials listed in §172.800, including site-specific or location-specific risks associated with facilities at which the hazardous materials listed in §172.800 are prepared for transportation, stored, or unloaded incidental to movement, and appropriate measures to address the assessed risks. Specific measures put into place by the plan may vary commensurate with the level of threat at a particular time. At a minimum, a security plan must include the following elements:

(1) *Personnel security.* Measures to confirm information provided by job applicants hired for positions that involve access to and handling of the hazardous materials covered by the security plan. Such confirmation system must be consistent with applicable Federal and State laws and requirements concerning employment practices and individual privacy.

(2) *Unauthorized access.* Measures to address the assessed risk that unauthorized persons may gain access to the hazardous materials covered by the security plan or transport conveyances being prepared for transportation of the hazardous materials covered by the security plan.

(3) *En route security.* Measures to address the assessed security risks of shipments of hazardous materials covered by the security plan en route from origin to destination, including shipments stored incidental to movement.

(b) The security plan must also include the following:

(1) Identification by job title of the senior management official responsible for overall development and implementation of the security plan;

(2) Security duties for each position or department that is responsible for implementing the plan or a portion of the plan and the process of notifying employees when specific elements of the security plan must be implemented; and

(3) A plan for training hazmat employees in accordance with §172.704 (a)(4) and (a)(5) of this part.

(c) The security plan, including the transportation security risk assessment developed in accordance with paragraph (a) of this section, must be in writing and must be retained for as long as it remains in effect. The security plan must be reviewed at least annually and revised

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

and/or updated as necessary to reflect changing circumstances. The most recent version of the security plan, or portions thereof, must be available to the employees who are responsible for implementing it, consistent with personnel security clearance or background investigation restrictions and a demonstrated need to know. When the security plan is updated or revised, all employees responsible for implementing it must be notified and all copies of the plan must be maintained as of the date of the most recent revision.

(d) Each person required to develop and implement a security plan in accordance with this subpart must maintain a copy of the security plan (or an electronic file thereof) that is accessible at, or through, its principal place of business and must make the security plan available upon request, at a reasonable time and location, to an authorized official of the Department of Transportation or the Department of Homeland Security.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Appendix III.

Department of Transportation Requirement for Hazmat Employee Training (49 CFR § 172.700 HM-232).

- (a) Hazmat employee training must include the following:
- (1) *General awareness/familiarization training.* Each hazmat employee shall be provided general awareness/familiarization training designed to provide familiarity with the requirements of this subchapter, and to enable the employee to recognize and identify hazardous materials consistent with the hazard communication standards of this subchapter.
 - (2) *Function-specific training.*
 - (i) Each hazmat employee must be provided function-specific training concerning requirements of this subchapter, or exemptions or special permits issued under subchapter A of this chapter, that are specifically applicable to the functions the employee performs.
 - (ii) As an alternative to function-specific training on the requirements of this subchapter, training relating to the requirements of the ICAO Technical Instructions and the IMDG Code may be provided to the extent such training addresses functions authorized by subpart C of part 171 of this subchapter.
 - (3) *Safety training.* Each hazmat employee shall receive safety training concerning -
 - (i) Emergency response information required by subpart G of part 172;
 - (ii) Measures to protect the employee from the hazards associated with hazardous materials to which they may be exposed in the workplace, including specific measures the hazmat employer has implemented to protect employees from exposure; and
 - (iii) Methods and procedures for avoiding accidents, such as the proper procedures for handling packages containing hazardous materials.
 - (4) *Security awareness training.* Each hazmat employee must receive training that provides an awareness of security risks associated with hazardous materials transportation and methods designed to enhance transportation security. This training must also include a component covering how to recognize and respond to possible security threats. New hazmat employees must receive the security awareness training required by this paragraph within 90 days after employment.
 - (5) *In-depth security training.* Each hazmat employee of a person required to have a security plan in accordance with subpart I of this part who handles hazardous materials covered by the plan, performs a regulated function related to the hazardous materials covered by the plan, or is responsible for implementing the plan must be trained concerning the security plan and its implementation. Security training must include company security objectives, organizational security structure, specific security procedures, specific security duties and responsibilities for each employee, and specific actions to be taken by each employee in the event of a security breach.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

(b) *OSHA, EPA, and other training.* Training conducted by employers to comply with the hazard communication programs required by the Occupational Safety and Health Administration of the Department of Labor (29 CFR 1910.120 or 1910.1200) or the Environmental Protection Agency (40 CFR 311.1), or training conducted by employers to comply with security training programs required by other Federal or international agencies, may be used to satisfy the training requirements in paragraph (a) of this section to the extent that such training addresses the training components specified in paragraph (a) of this section.

(c) *Initial and recurrent training -*

(1) *Initial training.* A new hazmat employee, or a hazmat employee who changes job functions may perform those functions prior to the completion of training provided -

(i) The employee performs those functions under the direct supervision of a properly trained and knowledgeable hazmat employee; and

(ii) The [training](#) is completed within 90 days after employment or a change in job function.

(2) *Recurrent training.* A hazmat employee must receive the training required by this subpart at least once every three years. For in-depth security training required under paragraph (a)(5) of this section, a hazmat employee must be trained at least once every three years or, if the security plan for which training is required is revised during the three-year recurrent training cycle, within 90 days of implementation of the revised plan.

(3) *Relevant Training.* Relevant training received from a previous employer or other source may be used to satisfy the requirements of this subpart provided a current record of training is obtained from hazmat employees' previous employer.

(4) *Compliance.* Each hazmat employer is responsible for compliance with the requirements of this subchapter regardless of whether the training required by this subpart has been completed.

(d) *Recordkeeping.* Each hazmat employer must create and retain a record of current training of each hazmat employee, inclusive of the preceding three years, in accordance with this section for as long as that employee is employed by that employer as a hazmat employee and for 90 days thereafter. A hazmat employer must make a hazmat employee's record of current training available upon request, at a reasonable time and location, to an authorized official of the Department of Transportation or of an entity explicitly granted authority to enforce the HMR. The record must include:

(1) The hazmat employee's name;

(2) The most recent training completion date of the hazmat employee's training;

(3) A description, copy, or the location of the training materials used to meet the requirements in paragraph (a) of this section;

(4) The name and address of the person providing the training; and

(5) Certification that the hazmat employee has been trained and tested, as required by this subpart.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Appendix IV.

Timeline for development and implementation of California Aeration Plan (CAP) in California.

September 2000: The first field trial of an early version of CAP, called “STACK,” was conducted by Dow AgroSciences in Maxwell, CA. STACK was conducted as part of a study evaluating sulfuryl fluoride concentrations around structures during fumigation and aeration using current labelled aeration procedures, Aeration Procedures 1 and 2.

June – Aug 2004: Dow AgroSciences evaluated CAP at single family residences and multi-story, multi-unit buildings in CA.

Sept. 2004: First draft of proposed language for CAP was written with input from key fumigators and Pest Control Operators of California (PCOC) members in CA.

Nov. 2004 – Feb. 2005: Dow AgroSciences evaluated CAP at single family residences in CA using GLP procedures.

April and throughout 2005: Later drafts of CAP proposed language were written input from key fumigators and PCOC members in CA.

July 2006: California Department of Pesticide Registration (CDPR) publishes, “Sulfuryl fluoride (Vikane®) Rick Characterization Document, Health Risk Assessment.”

2006: Vikane® gas fumigant label required by the US Environmental Protection Agency (EPA) to be amended to lower worker and occupant exposure limit from 5 ppm to 1 ppm.

June 27, 2008: California Department of Pesticide Registration (CDPR) notified sulfuryl fluoride registrants that it was placing sulfuryl fluoride products intended for structural fumigation into reevaluation. As a requirement of the reevaluation, registrants were required to submit monitoring data to demonstrate that aeration plans for structural fumigations are protective of workers and homeowners to 1 ppm.

At this time, key members of the PCOC Fumigation Enforcement Committee and fumigation experts at Dow AgroSciences began to formalize drafts of the proposed language for CAP for review by the PCOC Executive Committee, three subcontract fumigator groups in San Diego, southern California, and northern California, two County Agricultural Inspectors, and a CDPR enforcement representative. As feedback on a draft version was received, revisions were made, and subsequent drafts were again reviewed by these fumigation committees, groups, and regulatory representatives.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

September 24, 2008: In response to the CDPR reevaluation of sulfuryl fluoride products intended for structural fumigation, Dow AgroSciences submitted research demonstrating that new aeration procedure (CAP) provides protection to 1 ppm for homeowner reentry and workers. The research was conducted November 2004 through February 2005 in single-family residences, and documented in the report by Barnekow et al. 2006. "Sulfuryl Fluoride and Chloropicrin Concentrations in Air During Fumigation, Aeration, and Post-Clearance of Residential Structures," 1051 pages (MRID 48323101).

October 14, 2009: CDPR requested from the registrants of sulfuryl fluoride products intended for structural fumigation additional aeration data for multistory and multiple dwelling units (i.e. condominiums, townhouses, apartment complexes) for the reevaluation.

December 2009: The PCOC Board of Directors approved the proposed language for CAP with the understanding that some minor issues remained to be satisfied, including getting gas company agreement, fumigator training, development of specialized aeration equipment and a necessary transition period.

April 14, 2010: PCOC submitted the proposed language for CAP to CDPR. CAP was developed to address worker and bystander issues and would be used in lieu of the previously approved TRAP plan. CAP was submitted under Title 3 of the California Code of Regulations Section 6780(c) 3 as a Fumigation Safety Program (Program). PCOC requested CAP be reviewed and approved by the Director of CDPR.

PCOC identified the following issues that needed to be addressed prior to full adoption by industry:

- Time for both classroom and field training. PCOC had scheduled classroom sessions statewide to introduce CAP to fumigators. "Field training will be time consuming and will require the cooperation of fumigators, distributors and the registrants of sulfuryl fluoride."
- Fumigators need to purchase additional tarps and equipment to implement the new procedures as required by CAP. "The timing and financial constraints for tarp manufacturers to produce all the material in a short period is substantial. Many tarp orders are currently back ordered due to inadequate financing or material shortages."
- CAP requires specialized aeration inlet and exhaust equipment that was being developed.

PCOC requested an extension until September 1, 2010 for the fumigation industry to work through the issues, adopt, and implement CAP. The industry did request that if additional delays in the production of tarps and the specialized equipment occurred, they would request an extension.

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

May 11, 2010: CDPR informed PCOC it approved CAP. CDPR cited in the letter, “We understand that the transition to CAP-only fumigations is likely to take several months, involving both financial and logistical investments by fumigation operators. For that reason, use of the TRAP will be allowed until September 1, 2010. Any extension will be dependent on a demonstration of due diligence on the part of operators to comply.”

In the research trials, Dow AgroSciences used polyethylene tubing for the duct and various improvised materials, including a bicycle rim, to create the inlet devices. These materials validated the proof-of-concept of CAP, but were not suitable for fumigation industry use. Therefore, when CDPR approved CAP, California fumigation equipment distributors and suppliers began to intensively develop and evaluate configurations of the duct, duct cover, and inlet devices for CAP that would be durable, easy to install, and meet the requirements of CAP.

May 2010 : John Sansone wrote an article for the PCOC “Voice” about CAP. The article included the following information:

- “The necessary research to develop and support CAP has **spanned almost a decade** and involved significant work by Dow AgroSciences, Pest Control Operators of California and the pest management industry in California.”
- “At least eight California fumigation companies, all members of PCOC, worked with technical experts from Dow AgroSciences to test and refine the CAP procedures on actual fumigations over the course of many years.”
- Writing the CAP language involved “the executive committee of PCOC, the PCOC fumigation and fumigation enforcement committees, Branch 1 fumigators, Branch 3 inspectors, the three fumigator groups in California – San Diego, southern California and northern California, distributors and sulfuryl fluoride registrants.” The process to write CAP itself required at least five draft versions.
- “For fumigators, CAP involves more labor, the need to invest in more equipment and, in some cases, more engineering to accomplish the aeration procedure.”

In California, the gas companies would not restore gas and re-light appliances until the third day of the fumigation, which was the day after tarps were removed using Aeration Procedures 1 or 2 in conjunction with TRAP (the Tarpaulin Removal Aeration Plan required by CDPR for fumigation worker protection). Using CAP, gas company workers would still restore gas and re-light appliances on the third day of the fumigation, but this was the same day that the tarps are removed. Dow AgroSciences experts reviewed with

- PCOC and the gas company representatives the data that demonstrated the effectiveness of CAP, so the gas companies would accept CAP.
- The initial transition period was four months. During the transition period fumigators could use either TRAP or CAP.

June 8, 2010: In response to the CDPR request for additional data, Dow AgroSciences submitted research demonstrating that CAP will reduce sulfuryl fluoride levels from multiple

Sulfuryl Fluoride Advisory Panel

Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

dwelling buildings to 1 ppm. The research was conducted June through August 2004 and documented in the report by Barnekow, D. 2010. "Sulfuryl Fluoride and Chloropicrin Concentrations in Air During Aeration and Post-Clearance of Residential and Multi-Unit Structures Observed During the Development of the California Aeration Plan," 251 pages (MRID 51136601).

August 2010: CDPR extended the transition period for CAP by an additional two months, from September 1 to November 1, 2010. PCOC continued to work with CDPR to revise the language for CAP based on fumigator experience during the transition phase.

October 7, 2010: The date on a revised version of CAP accepted by CDPR.

November 1, 2010: TRAP and earlier versions of CAP (predating the version dated Oct. 7, 2010) were no longer acceptable by CDPR.

May 9, 2011: A document reviewing Frequently Asked Questions about CAP was distributed by CDPR to the County Agricultural Commissioners. The document was developed to provide County Agricultural inspectors with guidance on situations they observed with the implementation of CAP that were not addressed in the current CAP language.

In addition, some fumigators were using ducts and inlet devices of a size or construction material and/or installing these components in manner that compromised the efficiency of CAP; however, these parameters were not clearly defined in CAP. To ensure CAP was conducted as intended by the testing and to aid in regulatory compliance, key members of the PCOC Fumigation Enforcement Committee and fumigation experts at Dow AgroSciences revised CAP language. Drafts of CAP "II" were reviewed and revised with input from fumigation committees, groups, and regulatory representatives as previously described.

February 19, 2013: CAP II version was accepted by CDPR. This version contained many revisions in describing CAP procedures and equipment to further enhance its effectiveness based on fumigator experience and observations by County Ag inspectors.



Douglas Products

www.douglasproducts.com

August 22, 2022

U.S. Environmental Protection Agency
EPA Docket Center
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Docket ID: EPA-HQ-OPP-2022-0150
Via Regulations.gov

Re: EPA, Agency Information Collection Activities; Proposed Renewal and Request for Comment; Soil and Non-Soil Fumigants Mitigation, 87 Fed. Reg. 37,856 (June 24, 2022); EPA ICR No. 2451.03, OMB Control No. 2070-0197

Douglas Products (Douglas) is submitting these comments in response to the Environmental Protection Agency's ("EPA's") request for comment on an Information Collection Request ("ICR") that EPA is planning to submit to the Office of Management and Budget ("OMB"). The ICR, entitled: "Soil and Non-Soil Fumigant Risk Mitigation" and identified by EPA ICR No. 2451.03 and OMB Control No. 2070-0197, represents the renewal of an existing ICR that is scheduled to expire on January 31, 2023. Before submitting the ICR to OMB for review and approval under the Paperwork Reduction Act ("PRA"), EPA is soliciting comments on specific aspects of the information collection that are summarized in a Federal Register notice issued on June 24, 2022. Among other things, EPA seeks comments that will "[e]nhance the quality, utility, and clarity of the information to be collected," and/or "minimize the burden" of the ICR. 87 Fed. Reg. at 37,856. Douglas first addresses these items (by referring to prior comments it has submitted which, if addressed, would accomplish these objectives) before turning to a discussion of some portions of EPA's estimates for the burden of the information collection activities that do not fully reflect the amount of time and expense required to comply with the ICR.

Omission of Impact of EPA's Proposed Mitigation Measures for Sulfuryl Fluoride

The current ICR Supporting Statement does not account for the information collection burdens associated with EPA's proposed mitigation measures for sulfuryl fluoride products registered for residential fumigation. The ICR Supporting Statement does acknowledge that, "In May 2021, the Agency (EPA) proposed mitigation measures in the "Sulfuryl Fluoride Draft Interim Re-entry Mitigation Measures Memorandum" in response to the OIG recommendations." Sulfuryl fluoride registrants, fumigators, pest control associations, University educators and researchers, and regulators submitted over 130 detailed comments regarding this

memorandum and the proposed mitigation measures to the EPA docket (EPA-HQ-OPP-2009-0136) by September 23, 2022 deadline. In particular, among other response documents, Douglas submitted an extensive 38-page “Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures” by a Sulfuryl Fluoride Advisory Panel consisting of 21 members with technical, legal, and/or regulatory expertise in structural fumigation. The Sulfuryl Fluoride Advisory Panel’s Assessment outlined many parts of the proposed mitigation by EPA which are unnecessary, and it is enclosed with this letter in response to this ICR (Enclosure 1). The majority of comments submitted by other parties supported or were consistent with the conclusions of the Sulfuryl Fluoride Advisory Panel in the enclosed document.

At this time, EPA has not responded to the comments provided by Douglas or the Advisory Panel in response to EPA’s Sulfuryl Fluoride Draft Interim Re-entry Mitigation Measures Memorandum referenced above. EPA’s response to these comments could materially impact the burden associated with the ICR, and therefore the appropriate burdens for EPA to communicate to OMB in connection with the renewal of the ICR. Issues that were subject to unresolved comments include Fumigation Management Plans (FMPs), warning signs, stewardship training, and the California Aeration Plan (CAP). The Sulfuryl Fluoride Advisory Panel recommended simplification of requirements for FMPs and warning signs based on current state regulations and clarification of who must attend stewardship training. Because CAP was developed specifically for use in California conditions and is a complex procedure, the Advisory Panel recommended any revisions in aeration procedures be part of the registration review process and not enacted as interim mitigation procedures. Per the ICR Supporting Statement, “EPA anticipates publishing the Final Interim Re-entry Mitigation Measures Memorandum, describing necessary label changes for sulfuryl fluoride products which must be implemented by the registrants within 60 days after publication, in the Fall of 2022.” Since EPA intends to publish its final mitigation measures for sulfuryl fluoride before the existing ICR is renewed on January 31, 2023, it is appropriate that the EPA proposed mitigation measures for sulfuryl fluoride are reviewed for compliance with the PRA.

Registrant Burden Estimates are Inadequate

With regard to the current burden estimates, the estimate provided for non-soil fumigants in Table 16 of the Supporting Statement for an Information Collection Request (ICR) Under the Paperwork Reduction Act (PRA), regulations.gov ID EPA-HQ-OPP-2022-0150-0006 (the “Supporting Statement”) for registrant cost to “Develop/Maintain/Disseminate training materials (either electronically, on paper, or in person)” of \$15,212 per year is too low because, at a minimum, the estimate does not include the following considerations:

1. The estimated hours for Douglas to update its existing stewardship training programs is currently about 250 hours per year, not 160 hours per year. Multiple initial and annual stewardship programs must be reviewed and revised every year prior to training for Vikane® and ProFume® gas fumigants (Trademark of Douglas Products). For Vikane alone, there are three 2-hour annual stewardship training programs, one each for California, Florida, and other states, that must be updated each year. The American Society of Training and Development (now ATD – Association of Talent Development) estimated the time to create each hour of in-

person training ranges from 43-185 hours to develop one hour of instructor-led training: <https://www.td.org/newsletters/learning-circuits/time-to-develop-one-hour-of-training-2009>. Therefore, the estimate of 250 hours is consistent with industry standards for development of instructor-led training of this complexity. Douglas develops instructor-led training because it is documented by research to be the more effective than on-line training for participants to learn and retain information.¹

2. The estimated cost per hour for Ph.D. entomologists employed by Douglas to develop and revise stewardship training is 3-fold greater than the hourly estimate by EPA for technical personnel in Table 16. In addition, Douglas also contracts experts in graphics design and adult learning to assist the Ph.D. entomologists with revising the stewardship training programs each year. The hours and cost of these contractors, which are important for the content and delivery of training, are not included in bullet point 1 above or 2.

3. In 2021, Douglas field fumigation personnel conducted more than 45 initial and 380 annual stewardship training sessions for fumigators who use Vikane® and ProFume® gas fumigants. Because training is conducted in-person, Douglas estimates it requires 6 hours per annual stewardship training session and 10 hours per initial stewardship training session to include preparation, paperwork, travel, and conducting the training. Travel expenses vary and include mileage, airfare, hotel, and meals.

Therefore, based on adjustments reviewed in #1-3 above, the cost in 2021 for Douglas to “Develop/Maintain/Disseminate” stewardship training for fumigators who use Vikane and ProFume was about 60-fold greater than the estimate in Table 16.

The implementation of the extensive proposed interim mitigation procedures by EPA for sulfuryl fluoride products (registered for residential fumigation, such as Vikane) would likely require at least 2 hours of new stewardship training. Douglas estimates this will require about 100 hours of the Ph.D. entomologist, plus contracted experts in graphics design and adult learning, and will take at least 5 months to complete. The cost to develop this training could be 2-fold the cost cited in Table 16 of the Supporting Statement to “Develop/Maintain/Disseminate” training programs. This estimate does not include the cost to provide the instructor-led training sessions. If EPA agrees to the recommendations of Douglas and the Sulfuryl Fluoride Advisory Panel about certain changes to the proposed mitigation measures, as discussed in Enclosure 1, this training could be provided in less than one hour and require half the time to develop.

Ideally, the training on any new interim mitigation procedures to be required by EPA would occur in conjunction with the annual stewardship training for Vikane. Creation, production, and distribution of the annual stewardship training for Vikane requires six months to complete and occurs May through October each year. Conducting annual stewardship training for fumigators occurs November through May each year before peak fumigation season for Vikane. It is also a requirement in Florida regulations that fumigators must complete annual stewardship training for sulfuryl fluoride products registered for residential fumigation by June 1 each calendar year. If the training on the new interim mitigation procedures to be required by EPA cannot be developed and conducted in conjunction with the annual stewardship training for Vikane, this will

¹ Muljana, P. S., and Luo, T. (2019). Factors contributing to student retention in online learning and recommended strategies for improvement: A systematic literature review. *Journal of Information Technology Education: Research*, 18, 19-57. doi:10.28945/4182

August 22, 2022

add significant cost for Douglas. It is estimated that about 200 sessions will need to be conducted, at a cost that is more than 25-fold greater than cost cited in Table 16 to “Develop/Maintain/Disseminate” training programs. Therefore, Douglas requests that EPA provide registrants sufficient time to 1) develop training for new mitigation procedures, 2) conduct this training in conjunction with the annual stewardship training, and 3) release the product with the new labeling after the training has been completed. It is likely that EPA will release its final interim proposed mitigation procedures for Vikane in October 2022 or later, after the 2023 stewardship training program for Vikane® gas fumigant has been completed and distributed, and training using this program initiated. Therefore, Douglas requests that EPA permit registrants time to conduct training on new interim mitigation procedures during the 2024 stewardship training cycle and release the new labeling on product cylinders in Spring of 2024 after the stewardship training has been completed.

Conclusion

In conclusion, Douglas is concerned that the current ICR Supporting Statement significantly underestimates the actual burdens placed on sulfuryl fluoride registrants, especially for sulfuryl fluoride products registered for residential fumigation. Prior to submitting the final ICR to OMB, EPA should decide which comments from the Sulfuryl Fluoride Advisory Panel, Douglas, and others on its interim mitigation proposal it will implement, and then update the ICR burden analysis to reflect those revisions so that the ICR is appropriately scoped. Per requirements of the PRA, the quality, utility, and clarity of the information being collected should be maximized while the burdens are minimized. Douglas is available to the EPA to discuss the effects that adopting specific changes in the interim mitigation proposal would have on a the final ICR burden analysis.

Best regards,



Tim McPherson
Global Regulatory and Research Leader
Douglas Products



Enclosure 1: Sulfuryl Fluoride Advisory Panel Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures



Protecting Your Environment Since 1945

August 22, 2022

U.S. Environmental Protection Agency
EPA Docket Center
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Docket ID: EPA-HQ-OPP-2022-0150
Via Regulations.gov

Re: EPA ICR No. 2451.03 and OMB Control No. 2070–0197

The Florida Pest Management Association (FPMA), the representative for professional structural pest management companies in Florida, is submitting this letter the Environmental Protection Agency’s (“EPA’s”) request for comment on for the Information Collection Request (“ICR”) that the EPA is planning to submit to the Office of Management and Budget (“OMB”). The ICR, entitled: “Soil and Non-Soil Fumigant Risk Mitigation” and identified by EPA ICR No. 2451.03 and OMB Control No. 2070–0197, represents the renewal of an existing ICR that is scheduled to expire on January 31, 2023. Before submitting the ICR to OMB for review and approval under the Paperwork Reduction Act (“PRA”), EPA is soliciting comments on specific aspects of the information collection that are summarized in a Federal Register notice issued on June 24, 2022. To further assist EPA in understanding the structural fumigation industry in Florida, FMPA is also submitting the “Consultation Questionnaire for the Non-Soil Fumigant Risk Mitigation” (see Enclosure 1).

The FPMA represents over 4000 licensed pest management locations in Florida employing more than 7000 certified applicators and over 20,000 registered and trained technicians along with nearly 100,000 workers. Florida has the largest pest management industry in the country, accounting for 33% of U.S. pest management companies and revenues. FPMA members protect the homes, businesses, schools, food, lawns, and property investments of over 20 million Floridians and over 100 million annual visitors. Our members perform over 70,000 structural fumigations per year (second in the nation to California).

The current ICR Supporting Statement does not account for the information collection burdens associated with EPA’s proposed mitigation measures for sulfuryl fluoride products registered for residential fumigation. The ICR Supporting Statement does acknowledge that, “[i]n May 2021, the Agency (EPA) proposed mitigation measures in the ‘Sulfuryl Fluoride Draft Interim Re-entry Mitigation Measures Memorandum’ in response to the OIG recommendations.” FPMA submitted extensive comments regarding this memorandum and the proposed mitigation measures to the EPA docket (EPA-HQ-OPP-2009-0136) by September 23, 2022 deadline (see Enclosures 2 and 3). In addition, seven PCOC members participated on a Sulfuryl Fluoride Advisory Panel which drafted a 38-page document “Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures” which was submitted by Douglas Products to this docket (see Enclosure 4). These three submissions outlined many parts of the proposed mitigation by EPA which are unnecessary and/or unduly burdensome, and are enclosed with this letter in response to this ICR.¹

¹ Enclosures 2, 3, and 4 are also available on Regulations.gov with Comment IDs: EPA-HQ-OPP-2009-0136-0216; -0217; and -0327 (Exhibit A), respectively.

At this time, EPA has not formally responded to the submitted comments by FPMA including those that affect the PRA and the burdens calculated in the ICR Supporting Statement, such as Fumigation Management Plans, warning signs, stewardship training, and the California Aeration Plan (CAP). The ICR Supporting Statement acknowledges, "EPA anticipates publishing the *Final Interim Re-entry Mitigation Measures Memorandum*, describing necessary label changes for sulfuryl fluoride products which must be implemented by the registrants within 60 days after publication, in the Fall of 2022." Since EPA intends to publish its final mitigation measures for sulfuryl fluoride before the existing ICR is renewed on January 31, 2023, it is appropriate that the EPA proposed mitigation measures for sulfuryl fluoride are reviewed prior to that time and the ICR is amended to reflect the burdens associated with these new mitigation procedures.

With regard to the current burden estimates, the estimate provided for non-soil fumigants in Tables 12 through 14 for hourly cost for Certified Applicator (Certified Operator and Special Identification [SPID] cardholder in Florida) and Pesticide Handler (Second trained person - Fumigation Identification [FID] cardholder in Florida) are inadequate. In Florida, the hourly cost for a Certified Operator or SPID is about \$50.00/hour and for a second trained personal (FID) is about \$40.00/hour. These estimates include wages, benefits, workman's compensation insurance, and costs to maintain employee certifications.

In conclusion, the current ICR Supporting Statement significantly underestimates the burdens placed on fumigators in Florida who use sulfuryl fluoride products registered for residential fumigation because the EPA proposed mitigation measures in the "Sulfuryl Fluoride Draft Interim Re-entry Mitigation Measures Memorandum" were not considered. FPMA encourages EPA Prior to submitting the final ICR to OMB, EPA should decide which comments from the FPMA, the Sulfuryl Fluoride Advisory Panel, the registrants, and others on its interim mitigation proposal it will implement, and then update the burden analysis in the ICR Supporting Statement.

I encourage EPA to contact FPMA if there are questions about information in any of the documents FPMA submitted to this docket, or for assistance with the ICR burden analysis for any proposed mitigation procedures. Thank you for this opportunity to comment.

Sincerely,



Sean Brantley
Florida Pest Management Association
Government Affairs Committee

Enclosure 1: FPMA response to Consultation Questionnaire for the Non-Soil Fumigant Risk Mitigation

Enclosure 2: FPMA response to EPA Draft Interim Re-Entry Mitigation Measures on Sulfuryl Fluoride

Enclosure 3: FPMA request for a waiver from Fumigation Management Plan (FMP) requirements

Enclosure 4: Sulfuryl fluoride Advisory Panel Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Consultation Questionnaire for the “Soil and Non-Soil Fumigant Risk Mitigation” Renewal ICR

OMB Control No.: 2070-0197; EPA No.: 2451.03

Docket ID No.: EPA-HQ-OPP-2022-0150

Representative Consulted**Name: Florida Pest Management Association (FPMA)****Questions Related to Non-Soil Fumigants****(1) Publicly Available Data**

- *Is the information (e.g., Fumigant Management Plans (FMPs) or training materials) that the Agency requests available from any public source, or already collected by another office at EPA or by another agency? (Several fumigants are still in the registration review process, so mitigation is subject to change.)*

Answer: Refer to the cover letter, and Enclosures 2, 3, and 4 submitted by FPMA to Docket ID No.: EPA-HQ-OPP-2022-0150. A detailed description of the fumigation logs required in Florida is provided below.

- *If yes, where can you find the information? (Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they do not meet our data needs very well?)*

Answer: Refer to the cover letter, and Enclosures 2, 3, and 4 submitted by FPMA to Docket ID No.: EPA-HQ-OPP-2022-0150. A detailed description of the fumigation logs required in Florida is provided below.

(2) Frequency of Collection

- *Can you record, maintain, and distribute the information less frequently and still produce the same outcome?*

Answer: Refer to the cover letter and Enclosures 2, 3, and 4 submitted by FPMA to Docket ID No.: EPA-HQ-OPP-2022-0150. A detailed description of the fumigation logs required in Florida is provided below.

- *On average, how many non-soil fumigant applications are performed in any given year?*

Answer: In Florida, **about 70,000 fumigations using sulfuryl fluoride are conducted annually.** Based on a survey conducted by Douglas Products in 2018, in Florida on average about **745 structures are fumigated each year by each fumigation company**, including each branch location of a multi-branch company.

- *Some homes, buildings, and commodities may be fumigated every year, by the same pest control company or under contract, such that the time required for all subsequent, similar applications to that same site is reduced significantly. However, the current data available to EPA does not make a distinction between initial and subsequent applications. Due to limited information, EPA has*

assumed that every non-soil fumigant application requires a new FMP (except EtO and sulfuryl fluoride which are still in registration review; therefore, requirements for EtO and sulfuryl fluoride are subject to change), and that the estimated burden hours are the same for all non-soil fumigant applications.

- *If applicators typically perform subsequent applications at the same site, can you provide a rough estimate of how frequently these subsequent applications occur (e.g. about 25%, 50%, etc. of total applications)? Please list the type(s)/site(s) of these non-soil applications.*

Answer: There are two reasons for refumigating a structure for drywood termites. The first is that the fumigation did not achieve a sufficient dosage of sulfuryl fluoride to control the drywood termites. In this situation, the refumigation rate is about 1 - 3%

The second reason for refumigating a structure is that it is reinfested by drywood termites after the fumigation. The fumigation provides remedial control, but does not leave a pesticide residue to prevent pest reinfestation. For drywood termites, it takes on average 5-10 years for new colonies, started by alates (winged reproductive king and queen), to grow to a size to produce alates. Drywood termite alates are a very visible sign to building occupants of a drywood termite infestation. This refumigation rate averages about 5% per year. Unless a fumigation warranty is in place, the property owner/homeowner usually will get bids from several fumigation companies that may not include the fumigation company that previously fumigated the structure. Prior to treatment for wood-destroying organisms, including fumigation for drywood termites, requires the pest control company to issue a written contract (Florida Administrative Code, Chapter 5E-14.105). The property owner at the time of each renewal, if a previous renewal was purchased, has the option of extending the warranty annually after the first year for no less than 4 additional years (Florida Administrative Code, Chapter 5E-14.105 (3)(b)). Some structures can be fumigated more frequently if there is a real estate transaction. Others are fumigated less frequently if the same owner retains the structure. Nonetheless, it is unlikely that the same fumigator would refumigate a structure for this second reason (reinfestation) within an interval that would permit any meaningful reduction in the time need to prepare an FMP.

Therefore, for both reasons stated above, in total about 7% of previously fumigated structures are refumigated each year.

- *How much time does it take to complete the requirements identified in this ICR for the either a one-time application or an initial application? For subsequent applications? Please list the type(s)/site(s) of these non-soil applications.*

Answer: In Florida, the Certified Operation (CO) or Special identification Cardholder (SPID) are required to use a Fumigation Log (FDACS-13000, Rev. 5/21) when onsite at a fumigation using a residential fumigant (Florida Administrative Code, Chapter 5E-14.142(3)). An alternative fumigation log may be used only if it incorporates all information required to be recorded in the FDACS Fumigation Log. The required information must be recorded in the fumigation log form by two working days after the date of fumigant application. **The log form for each fumigation takes about 30-40 minutes per fumigation site to complete throughout the fumigation process, and requires the following information be recorded:**

1. Name and license number of the fumigation employee responsible for the fumigant application;

2. Name of the fumigation employee(s) who applied the fumigant;
3. Date and time of the following: fumigant introduction, start of aeration, completion of aeration, and final testing for clearance;
4. Detailed information relating to each label required clearance period including names of employees and personnel involved and start and stop times;
6. Total volume (cubic feet or other appropriate units) of the fumigated space;
7. Brand name or EPA registration number of the pesticide product applied; and,
8. Total amount in pounds or ounces, of fumigant and warning agent applied. •

Because the above information is specific to the conditions, timing, and personnel for each fumigation, there is very little time saved in filling out the fumigation log form again if the fumigation is repeated at the same structure.

EPA is requesting the **following additional information be recorded in a Fumigation management Plan (FMP) which is not currently required in the Florida fumigation log.**

- Posting signs - how many signs, indicate placement
- List credential numbers of crew members present during introduction of chloropicrin (warning agent) and fumigant
- List phone numbers of crew members present during introduction of chloropicrin and fumigant
- Dosing calculator used
- Relative humidity, number of fans, fan amps
- List credential numbers of crew members present during initiation of aeration
- List phone numbers of crew members present during initiation of aeration
- If monitored: location, equilibrium readings, interim readings, terminal readings, hours elapsed between readings, actual HLT, correction information
- Clearance device: Information on the way the device was calibrated.
- Emergency preparedness/response measure: Provide information in case of an emergency, including the hospital nearest to the site.

Information not required on the Florida fumigation log, but listed on the EPA proposed FMP, is not critical to conducting the fumigation, provides no additional consumer or worker protection or aids in the diagnosing of the cause of issues may arise during a fumigation that result in an investigation, fine, and/or disciplinary actions. The specific reason(s) why each bullet point of additional information requested by EPA is not required for a fumigation log is described in Table 3 of Enclosure 4: Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures. FPMA submitted a waiver from the FMP requirements within EPA's proposed Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures (EPA-HQ_OPP-2009-0136-0216) (See Enclosure 3).

FPMA estimates that it will require **an additional 20 minutes per fumigation log form** to document the additional information requested by EPA that is not currently required in the Florida fumigation log. For 70,000 fumigations conducted annually in Florida, that represents **an additional 23,100 hours** for the CO or SPID at **an additional labor cost of \$1,155,000 for the industry** (based on \$50.00/hour). For a fumigation company, that represents **an additional 246 hours** for the CO or SPID (based on 745 fumigations/year) at **an additional labor cost of \$12,300.** **There would be no increase in cost to the Florida structural fumigation industry if EPA waives the FMP requirements for Florida fumigators as requested by FPMA.**

(3) Clarity of Instructions

The ICR is intended to account for the paperwork burdens associated with the requirements for certain fumigant product users to develop FMPs, to develop or participate in fumigant-specific trainings when required, and to provide certain information to decrease the likelihood of applicator, handler, and bystander exposure to fumigants.

Based on the available instructions (fumigant labeling requirements, EPA guidances, etc.), is it clear what is required? If not, what suggestions do you have to clarify the instructions?

Answer: As previously described, the information that must be recorded for the Florida fumigation log is clearly stated in Florida Administrative Code, Chapter 5E-14.142(3)(a) and in the Fumigation Log template (FDACS-13000, Rev. 5/21). These requirements are well understood by the structural fumigation industry.

Some of the additional information EPA is proposing to record in an FMP (i.e., fumigation log form) is confusing as follows:

"Clearance device: Information on the way the device was calibrated" - For sulfuryl fluoride clearance devices (SF-ExplorIR, CLIRcheck, FumiSpec Lo) which can only be serviced by authorized service providers, the fumigator does not have this information (i.e., it is not in the User Manual).

"List credential numbers of crew members present during each phase of the fumigation" - "Credential numbers" not standard terminology for fumigator licensing. Only the CO and SPID have a license number. Other crew members do not have license numbers.

"Prior to fumigating, the certified applicator supervising the fumigation must verify that a site-specific fumigation management plan (FMP) exists. The FMP is intended to ensure a safe and effective fumigation. The certified applicator supervising the fumigation must ensure that the FMP is up-to-date and applicable to the fumigation before it takes place." - This needs to be reworded because most of the documentation required is recorded during the fumigation process, and not before the fumigation. Soil and commodity fumigations are repeated at the same site and may be complex sites, such as food processing facilities. In these cases, development of a site-specific FMP before the fumigation is useful. In contrast, residential buildings and other non-industrial buildings are very similar in features that would affect how the fumigation is conducted. If a fumigation using a residential fumigation is repeated at a given building, it would typically occur years later as discussed in this questionnaire and is likely be conducted by another fumigation company. Therefore, a site-specific FMP developed before the fumigation is not necessary or useful for residential fumigants.

- *Do you understand that you are required to maintain records? How long you are required to maintain these records?*

Answer: Florida Administrative Code, Chapter 5E-14.142(3)(b) requires the fumigation log form be retained for **two years** from the date of the fumigation.

- *While there no required forms associated with this process, EPA does provide sample FMP templates for soil fumigants online (<https://www.epa.gov/soil-fumigants>).*

- *Do you use them as a guide for completing the non-soil fumigant requirements, or have you developed your own format?*

Answer. The EPA sample FMP templates for soil fumigation are not relevant to structural fumigation, and therefore are not useful as guides. As previously described, the information that must be recorded for the Florida fumigation log is clearly stated in the Florida Administrative Code, Chapter 5E-14.142(3)(a) and in the Fumigation Log template (FDACS-13000, Rev. 5/21). Florida fumigators may use an alternative fumigation log form only if it incorporates all information required to be recorded in the current Fumigation Log, FDACS-13000, Rev. 05/21.

- *If you have developed your own format, why did you choose to do so?*

Answer: Most Florida fumigators use a log form as formatted in the template (FDACS-13000, Rev. 5/21).

- *Without an available template specification created for non-soil fumigants, has it been difficult to develop your own format to comply with the non-soil fumigant labels?*

Answer: The labeling for sulfuryl fluoride products registered for fumigation of residential structures do not currently require an FMP. The template (FDACS-13000, Rev. 5/21) for the fumigation log provides information required to be recorded for each fumigation per the Florida Administrative Code, Chapter 5E-14.142(3)(a).

- *Do you believe that an EPA-developed template for non-soil fumigants will help to reduce burden?*

Answer: No, not for Florida. The template (FDACS-13000, Rev. 5/21) for the fumigation log provides information required to be recorded for each fumigation per the Florida Administrative Code, Chapter 5E-14.142(3)(a). The template is well understood by the Florida structural fumigation industry.

(4) Electronic Reporting and Recordkeeping

- *Are you completing the FMPs and maintaining records by paper or electronically?*

Answer: The majority of the fumigation companies in Florida use a paper log form. A small number of companies use electronic devices, such as tablets or iPads, to record data on the log forms in the field.

- *If you are using paper, is it possible for you to keep records electronically?*

Answer: Yes. Florida regulations permit electronic or digital copies of the original log form are allowed, provided the copy(s) are readily available at the time requested (e.g. office records check by the Department of Agriculture and Consumer Services, Division of Agricultural Environmental Services) for inspection and copying, per Florida Administrative Code, Chapter 5E-14.142(3)(b).

- *If yes, why have you chosen to complete the requirements by paper?*

Answer: Paper is inexpensive, reliable, and easy to use. Paper does not require additional cost to purchase equipment, software, and training for employees. Paper does not malfunction or lose

battery power.

- *If no, what obstacles have you experienced that prevent you from completing the requirements electronically?*

Answer: Electronic devices to use in the field and supporting software add significant expense.

The standard devices, such as tablets, are not robust to field conditions, including high heat, dirt, and rough handling. Users must be trained to use these devices. The devices can also fail, losing important recorded data. The software currently customized for use by pest control companies to integrate these log forms into business operations is very expensive for a small company to purchase.

- *If you are completing the requirements electronically, in what format (e.g., Word, Excel, online, etc.)?*

Answer: A PDF form with fillable fields on tablet, iPad, or other electronic device is currently used by a few Florida companies for recording information in the fumigation log forms.

- *Has electronic recordkeeping reduced your paperwork burdens? If so, please explain.*

Answer: As previously discussed, based on how much new information is required in a fumigation log form when a structure is refumigated, electronic recordkeeping does not significantly reduce the paperwork burden.

- *What benefits would electronic reporting and recordkeeping bring you in terms of burden reduction or greater efficiency in compiling the information?*

Answer: The potential benefits of electronic record keeping is less physical storage space is required, and ease of data collection and completion. In addition, if the fumigation log form is integrated into business operations software, it would be easier to conduct quality control reviews, evaluate crew performance, and other business assessments.

(5) Burden and Costs

- *The Agency assumes there are some capital costs for soil fumigant users for buffer zone signs and monitoring equipment, but did not identify similar costs for non-soil fumigants. Are there similar capital costs for non-soil fumigant applications? Please provide estimates for the capital costs that may be associated with non-soil fumigant applications.*

Answer: A significant potential capital cost from one of EPA proposed interim mitigation measures for sulfuryl fluoride products registered for residential fumigation was the requirement to conduct the California Aeration Plan (CAP) to aerate structures. For fumigators in Florida, the additional equipment (tarps, clamps, snakes, corner pads, CAP ducts and vents, fans, introduction and monitoring hoses, durable signs, chloropicrin application pans, etc.) could average **\$45,000 per fumigation truck** for the initial purchase.¹ This does **not** include the added wear-and-tear on tarping materials to remain on each fumigated structure for an additional day. In other words, tarps would be used for fewer fumigations before they would need to be replaced. With CAP, tarps remain on each structure for an average of two

¹ An average fumigation truck would have a crew of 3-4 personnel and could install tarps and introduce fumigant into three standard size single-family residences per day. Because CAP requires tarps to remain on the structure for an additional night (i.e. at least 12 hours), additional equipment must be purchased for each fumigation truck for one day of fumigation installations.

days, one each for the fumigation and aeration periods, rather than one day with the current label aeration procedures in which tarps are removed during the initiation of aeration. Also, if the current fumigation trucks are not configured to carry the large CAP ducts, CAP vents, and extra fans, a smaller truck, at an average cost of **\$80,000**, may need to be purchased to transport these additional fumigation materials to and from each fumigation site.

CAP duct and cover need modification and evaluation for high rain and high wind environments, based on field trials conducted by one sulfuryl fluoride registrant, Douglas Products, in Florida. The need for these modifications were discussed in Sulfuryl fluoride Advisory Panel Assessment (Enclosure 4) as follows:

“Field trials of CAP in Florida conducted by Douglas Products, with the assistance of licensed fumigation companies, have confirmed that rain events can interfere with the proper functioning of CAP equipment. During the fumigation, rainwater can accumulate and depress the CAP duct cover, making the cover difficult to remove as intended when the fumigator at ground level pulls a strap to peel back the cover. During aeration, rain can accumulate in the bottom of the duct, restricting airflow through the duct and potentially interfering with the duct fan operation. Therefore, the CAP duct and duct cover need to be modified and evaluated for use in high rain conditions.” The time required to develop and evaluate modifications in this CAP equipment is currently not known.

Additional equipment costs are only a portion of the additional expenditures that CAP would require. Other types of increased costs are discussed below in response to the question, “Are there other costs that should be accounted for that may have been missed?”

- *How many non-soil fumigant applications are made annually? Please list the fumigant(s) and site(s) covered by your estimate.*

Answer: As previously discussed, in Florida, about **70,000 fumigations using sulfuryl fluoride are conducted annually**. Based on a survey conducted by Douglas Products in 2018, in Florida on average about **745 structures are fumigated each year by each fumigation company**, including each branch location of a multi-branch company. These fumigations are conducted with **sulfuryl fluoride products registered for residential fumigation** (Vikane® gas fumigant [Douglas Products] and Zythor® [Ensysstex]).

Sites fumigated with these sulfuryl fluoride products include dwellings (including mobile homes and multi-unit residences), buildings (such as offices, stores, schools, churches, museums, medical and research facilities, restaurants, municipal buildings, theaters, hotels and motels, etc.) construction materials, furnishings (household effects), shipping containers and vehicles including automobiles, buses, surface ships, passenger railcars, and recreational vehicles (aircraft are excluded).

- *How long does it take to complete a non-soil fumigant FMP? Please list the fumigant(s) and site(s) covered by your estimate.*

Answer: As previously discussed, In Florida, the Certified Operation (CO) or Special identification Cardholder (SPID) are required to use a Fumigation Log (FDACS-13000, Rev. 5/21) when onsite at a fumigation using a residential fumigant (Florida Administrative Code, Chapter 5E-14.142(3)). The log form for each fumigation takes about **30-40 minutes per fumigation site** to complete throughout the fumigation process, and requires the following information be recorded:

As previously discussed, FPMA estimates that it will require **an additional 20 minutes per fumigation log form** to document the additional information requested by EPA that is not currently required in the

Florida fumigation log. For 70,000 fumigations conducted annually in Florida, that represents an **additional 23,100 hours** for the CO or SPID at an **additional labor cost of \$1,155,000 for the industry** (based on \$50.00/hour). For each fumigation company, that represents an **additional 246 hours** for the CO or SPID (based on 745 fumigations/year) at an **additional labor cost of \$12,300. There would be no increase in cost to the Florida structural fumigation industry if EPA waives the FMP requirements for Florida fumigators as requested by FPMA.**

Fumigants used under these regulations are sulfuryl fluoride products registered for residential fumigation (Vikane® gas fumigant [Douglas Products] and Zythor® [Ensystem]). Sites fumigated with these sulfuryl fluoride products are listed above.

- *Bearing in mind that the burden and cost estimates include only burden hours and labor costs associated with the paperwork involved with this ICR (e.g., the ICR does not include estimated burden hours and costs for conducting studies), are the estimated burden hours and labor rates accurate? If you provide burden and labor cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates. Also, please specify the type and site(s) of fumigation.*

Answer: Labor rates were not accurate. In Florida, the hourly cost for a Certified Operator or Special Identification Cardholder (i.e. certified applicator) is about **\$50.00/hour** and for a Fumigation Identification Cardholder (i.e., pesticide handler) is about **\$40.00/hour**. These estimates include wages, benefits, workman's compensation insurance, and costs to maintain employee certifications.

The ICR estimated burden costs did not include the EPA proposed in the interim mitigation procedures for sulfuryl fluoride products registered for residential fumigation. The cost burden of the additional information, currently not required by Florida regulations, that EPA is proposing for fumigators to record on fumigation log forms is repeatedly discussed in this questionnaire.

- *Are there other costs that should be accounted for that may have been missed?*

Answer: Yes, with respect to the potential requirements to use the California Aeration Plan (CAP). In addition to the increased equipment costs discussed above, the other significant burden cost for fumigators to conduct CAP is additional cost in owner/manager time to change business operations, forms, and platforms for CAP, as follows:

- Contracts with consumers and companies subcontracting fumigations.
- Property owner preparation lists, such as adding removal of items potentially damaged by CAP (e.g., external lights, globes, cameras, and other features that extend beyond the roof eaves).
- Pricing.
- Sales literature.
- Web sites.
- Advertising.
- Company operating procedures.
- Internal company training procedures on aeration.
- Fumigation vehicle equipment inventory lists.
- Scheduling for fumigations and employee deployment at fumigations.

The estimated cost equipment does not include the additional cost in owner/manager time to educate and inform employees, customers, and others about CAP, as follows:

- Educate fumigation company sales and office personnel, customers (realtors, property management companies, school districts, etc.) and pest control companies (i.e., prime contractors) about the new aeration procedures.
- Inform insurance provider of the new aeration procedure, which requires more equipment and longer time with tarps on the structure. (There possibly could more damage to structural elements due to tarps constricting on the structure for at least 12 hours during CAP.)

The estimated time for the owner/manager to conduct all the above activities is **80 hours**. At an estimated wage \$130.00/hour for an owner/manager, the cost per fumigation company is **\$10,400**. These costs do not include the cost to print new forms.

The above estimates do not include the additional classroom and field training and supervision required for the Florida COs, SPIDs, and FIDs to learn how to conduct CAP. There will be a loss in efficiency of fumigation crews, estimated at 5%, while this learning process occurs and for the extra time to install aeration equipment (CAP ducted fans and vents) that are not used with the current label aeration procedures. California regulators allowed fumigators six months to adopt CAP after written procedure for CAP were finalized. Based on this, it is estimated that the cost per fumigation employee over six months will be 50 hours for training and lost efficiency, at a cost of **\$2500 per CO and SPID, and \$2,000 per FID**. Based on a survey conducted by Douglas Products in 2018, in Florida on average **five certified operators** (e.g., COs and SPIDs) work at each fumigation company, including each branch location of a multi-branch company. Assuming the same number, five, FIDs are employed per fumigation company, the total cost in training and lost efficiency for fumigation employees to learn CAP is **\$22,5000**.

In conclusion, the total estimated minimum cost per fumigation company (including branch locations) to adopt CAP for one fumigation truck is about **\$77,900**. The cost would be greater, about **\$157,900**, if the company had to purchase an additional truck to transport added CAP equipment.²

Equipment costs:	\$ 45,000 (per truck)
Additional truck:	\$ 80,000 (if fumigation truck cannot carry CAP equipment)
Owner/manager time:	\$ 10,400
CO/SPID/FID time:	\$ <u>22,500</u>
Total	\$157,900

² If EPA requires additional substantiation for any of the expenses (or wage rates) discussed, EPA should so advise FPMA. Likewise, if EPA requires additional information concerning potential cost impacts to fumigation customers, or the ability of the fumigation industry to bear certain of the costs mentioned herein, FPMA can attempt to collect such information.



Protecting Your Environment Since 1945

Re: Proposed Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures
Regulations.gov ID No. EPA-HQ-OPP-2009-0136-0105

To Whom It May Concern,

The Florida Pest Management Association (FPMA), the representative for professional structural pest management companies in Florida, is responding to the the U.S. Environmental Protection Agency's proposed *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures* (EPA-HQ-OPP-2009-0136-0105). FPMA is presenting this report on behalf of all Florida fumigators, prime contractors using subcontracted fumigation services and the Florida consumers purchasing fumigation services to protect their property.

The FPMA represents over 4000 licensed pest management locations in Florida employing more than 7000 certified applicators and over 20,000 registered and trained technicians along with nearly 100,000 workers. Florida has the largest pest management industry in the country, accounting for 33% of U.S. pest management companies and revenues. FPMA members protect the homes, businesses, schools, food, lawns, and property investments of over 20 million Floridians and over 100 million annual visitors. Our members perform over 70,000 structural fumigations per year (second in the nation to California).

The US EPA has proposed interim risk mitigation procedures for the use of sulfuryl fluoride fumigant used in residential fumigation. These risk mitigation efforts are not part of the normal Re-registration Eligibility Determination, rather an Interim Label change which imposes major industry hurdles and challenges accessibility to Florida's consumers through additional costs. The FPMA hereby submits this following report.

Sincerely,

Sean Brantley
Government Affairs Chairperson
Florida Pest Management Association

Introduction

On May 23, 2021, the United States Environmental Protection Agency (EPA) opened a 60-day public comment, which was later extended an additional 60 days, on its proposed risk mitigation procedures for described in the document, *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures* (EPA-HQ-OPP-2009-0136-0105). The proposed risk mitigation procedures would require significant and extensive labeling changes for sulfuryl fluoride products registered for residential fumigation, specifically Vikane® gas fumigant (Douglas Products, Liberty, MO) and Zythor® (Ensystem, Fayetteville, NC). These procedures are proposed in response to recommendations in the Office of Inspector General's (OIG) 2016 report, *Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries from Residential Fumigations* (No. 17-P-0053).

The Florida Pest Management Association (FPMA), as mentioned in the cover letter, is the largest pest control association in Florida and is highly involved in the representation of fumigators. FPMA provides approved Continuing Education Units (CEU) training courses for its members, participates in demonstrations of fumigation operations, provides legal consultation to fumigators, offers fumigation resource persons to fumigators and also has its own standing committee, the Fumigation Advisory Committee (FAC). FPMA leaders are deeply involved in representing fumigation industry interests including FPMA members holding fumigation seats on the State of Florida's Pest Control Enforcement Advisory Council (PCEAC), the National Pest Management Association's (NPMA) Fumigation Committee, Douglas Product's Sulfuryl Fluoride Advisory Panel (Panel) as well as our involvement in state legislative affairs, training for state and federal agency personnel, co-authoring fumigation training material for state certification examinations and as lead instructors at the University of Florida School of Structural Fumigation. The FPMA understands the value of the fumigation industry in Florida and across the nation from the fumigation professional to the consumer of those services.

The FPMA is strongly supporting the findings in the posted docket item *Douglas Product's Sulfuryl Fluoride Advisory Panel Assessment of Proposed Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures*. The FPMA has participated and reviewed the document thoroughly and stands by the assessments declared in the Panel's report. This report provides the weight and argument for the EPA to consider the shortcomings of the rushed *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures*.

Furthermore, the FPMA has drafted the document posted to the docket, *Florida Waiver Request*. This document has been posted separately from this wider response report to draw attention to the importance and the details of a waiver for Florida fumigation operations from any Fumigation Management Plan (FMP) requirements. The *Florida Waiver Request* stands on its own and must be considered in light of the unique regulatory environment in Florida.

One of the fumigation incidents that prompted the EPA OIG investigation occurred in Florida. That incident prompted the Office of Inspector General (OIG) and the Florida Department of Agriculture and Consumer Services (DACS) recommend changes in state rules and procedures to address the root causes of the incident. Those recommendations resulted in subsequent changes to rules for fumigators and registrants of sulfuryl fluoride products registered for residential fumigation (residential fumigants), as described in the *Florida Waiver Request*. These current rules are listed in Appendices I, II, and III.

The FPMA finds that these 5 proposals should be moved to the regular EPA registration review of the sulfur dioxide versus this interim label change. It makes more sense to have the proper feedback and completeness on a final federal label rather than having an interim label and a final label overlapping in deployment. For regulating compliance, a single new federal label is more logical. Any significant change in fumigant labeling requires a fumigation company to review and revise as needed all facets of its operations, including its contracts, insurance policies, procedures, literature, advertising, and training. It is less costly and disruptive to business operations to do this once, rather than twice in succession for two labeling changes likely to occur within one year of each other.

Response to EPA Proposed

The EPA has proposed what is essentially 5 major items for the *Sulfur Dioxide Draft Interim Re-Entry Mitigation Measures*:

- Removal of the Spectros SF ExplorIR and Interscan GF1900 clearance devices based on the EPA Analytical Chemistry Branch laboratory evaluation
- Amending label requirements for warning sign features and placement
- Requirement of Fumigation Management Plans (FMP)
- Posting registrant Stewardship plans to EPA website, imposing requirements for training content, attendees and hands on training
- Replacing Aeration Procedures 1 and 2 with the California Aeration Plan (CAP)

These 5 items are proposed to be applied in full regulatory context in a very accelerated timeframe. The timeframe that the EPA has promoted is impossible even if the items were agreeable and tenable. The EPA is attempting to put answers to its own Office of Inspector General as an interim label change immediately ahead of a “normal” Re-Registration Eligibility Determination (RED). These changes need to be put back into the RED where they belong and all changes to federal labeling would occur at once as normal processes would have them happen. This is a highly dysfunctional way to do label changes that would involve massive data collection, regulator training, industry training and equipment procurement. These changes are also not consistent with label development in that there is no support mechanism included for specific items other than recommendations from OIG inspectors in their report posing questions to the EPA itself. This process as presented to industry is 600+ pages of technical information to wade through in a short period of time. It is clear through the EPA’s own information posted to the docket that the EPA is unaware of many of the facts in the industry today as well as having an apparent rush “to do something”.

The FPMA works with stakeholders directly and as a volunteer run organization, we have fumigators sharing their expertise because they do this every day of every week of every year to some 70,000 fumigations per year using these products. We are certain that our perspective presented is accurate and inclusive of safety, practicality and is regulatable.

Removal of the Spectros SF ExplorIR and Interscan GF1900 clearance devices based on the EPA Analytical Chemistry Branch laboratory evaluation

The OIG Report, *Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries from Residential Fumigations*, recommended that the EPA conduct an assessment of the 4 approved clearance devices to validate their effectiveness in detecting required clearance levels as part of the EPA's ongoing re-evaluation of fumigants.

The Spectros SF-ExplorIR is used by more than 80% of the sulfuryl fluoride fumigators in Florida. This is documented in the sulfuryl fluoride clearance device registry maintained by the FDACS. Florida fumigators who apply residential fumigants must register their sulfuryl fluoride clearance devices with FDACS. The date for the last calibration verification must be entered for each device. Clearance device service providers have access to the registry to update calibration verification dates for the devices they are servicing on behalf of their fumigation customers. An authorized service provider for Spectros Instruments is conveniently located in Florida. Each year, this service provider participates in numerous training programs, hosted by FPMA and University of Florida, throughout the state to educate fumigators about maintenance and correct operation of the SF-ExplorIR and other Spectros monitors. Florida fumigators should not be required to replace their SF-ExplorIRs if additional research documents that this device has the required sensitivity to measure sulfuryl fluoride.

The FPMA is highly supportive of allowing the device manufacturer(s) the time they need to pursue third party lab testing to present to the EPA.

The FPMA is supportive of the continued use of all demonstrably effective clearance devices.

The FPMA proposes that any action taken on clearance device(s) be moved to the RED phase until evaluation is complete of third party laboratory testing.

Amending label requirements for warning sign features and placement

The FPMA clearly understands that each State Lead Agency (SLA) has regulated the use of fumigants specific to the unique needs of their state. FPMA has reviewed the current Florida Rule and Law to argue what the needs should be for warning signs while balancing what other State Lead Agencies (SLA) may be regulating. For instance, California's SLA has strong guidance on warning signs and while there is some overlap with Florida we clearly understand that all SLAs with fumigation regulations have different ways of regulating. The FPMA is proud of the Florida SLAs regulatory oversight of the industry and we are comfortable with the detailed wording in our Rule and Law that regulates warning signs. The EPA has asked for a large label change to include sign formatting and placement. FPMA does not agree that it is necessary in Florida and that the proposed language from the Panel is more acceptable than the EPA proposed language.

The Florida SLA, DACS, has significant Laws and Rules to enforce regarding fumigation warning signs. Standards for size, placement, and formatting are included in the litany of regulations. The comparison against the EPA proposed language and the FPMA supported revised language with FPMA rationale is listed below in Table 1.

TABLE 1. COMPARISON OF EPA PROPOSED SIGN LANGUAGE WITH FPMA SUPPORTED REVISED LANGUAGE AND THE FPMA RATIONALE FOR THE REVISION

EPA Proposed Label Language for Warning Signs (Language to Change in Red)	Panel Suggested Revision if Needed (Revisions underlined)	FPMA Rationale
Unless otherwise specified by state regulations:	<u>The requirements below apply only in states that have not established state-specific warning sign requirements for fumigation operations. Applicators in states that have established warning sign requirements, must follow those existing state requirements instead of the requirements below. In states that have not established warning sign requirements, the following requirements shall apply:</u>	Florida has a long history of dictating specific requirements related to warning signs. The revised label statement would allow Florida to continue doing what it does with regard to regulating signs.
The signal word DANGER/PELIGRO, the SKULL and CROSSBONES symbol, and the statement "Area under fumigation, DO NOT ENTER/NO ENTRE" - all minimum height 2 inches and printed in red.	The signal word DANGER/PELIGRO at a minimum height of 2 inches in height, the SKULL and CROSSBONES symbol at <u>a minimum of 1 inch in height</u> , and "Area under fumigation, DO NOT ENTER/NO ENTRE, " <u>all printed in one or more colors contrasting with the white background.</u>	The revised height requirements are currently in Florida regulations.
The date of fumigation.	None	Currently a Florida requirement in state warning sign regulations and the Vikane® gas fumigant label.
Brand name of fumigant used (minimum height ½ inch).	Name of fumigant used (minimum height ½ inch).	Florida requires the common name of the fumigant
Name, address, and telephone number of the applicator.	Name, address, and telephone number of the applicator <u>or company performing the fumigation</u>	Florida already requires the company info and the Certified Operator in Charge as well as the applicator.

TABLE 1-CONTINUED. COMPARISON OF EPA PROPOSED WARNING SIGN LANGUAGE WITH FPMA SUPPORTED REVISED LANGUAGE AND THE FPMA RATIONALE FOR THE REVISION

EPA Proposed Label Language for Warning Signs (Language to Change in Red)	Panel Suggested Revision if Needed (Revisions underlined)	FPMA Rationale
Warning signs must be constructed of material that enables wording to remain legible and visible for the duration of the fumigation and aeration periods.	<u>Information on warning signs must remain legible during the entire posting period.</u>	Currently a requirement in the Structural Fumigation Manual for Vikane® gas fumigant, which is part of the labeling as well as Florida Rule
Warning signs must be placed on the structure at or near all doors and entrances.	None	Currently a requirement in Florida warning sign regulations and the Vikane label.
On tented structures, additional warning signs must be placed on the outside of the tarp so that they are clearly visible from all accessible sides, and from any direction from which the site may be approached.	None	Florida has language saying all sides and interpretations that this equals “visible upon approach”.
Must be placed on all seams on first floor level where two tarps are joined by the fumigator.	Delete	Unnecessary language with the requirement to place signs so they are visible upon approach. This requirement could be confusing for state inspectors who may not be able to determine where two tarps are joined together versus a "false" seam. A false seam is where material from one tarp is tucked and clamped to better fit the tarp to the enclosed structure.

The FPMA recommendations listed above are consistent with the Panel’s findings and we are hopeful that EPA sees the value of language that has been vetted for all states by experts in the field. The recommended language is beneficial to the hazard communication to humans approaching a fumigated structure. In states where no regulations exist for warning signs, this new labelling will give them enforceable language regarding warning signs. For Florida fumigators, the Panel’s recommended changes would not cause further confusion to inspectors or fumigators and would allow DACS to continue its enforcement of current regulations.

The FPMA strongly supports the Panel’s assessment and proposals for warning sign language.

The FPMA specifically is opposed to warning sign placement language that is unenforceable such as the proposed “on every seam where two tarps are joined together”.

FPMA also recommends the pursuit of these changes to be made during the normal RED process and not during the Interim Label proposal. These changes, along with the others, should be made in whole on the label so that training regulators and fumigators alike can occur properly without having different labels in circulation.

Requirement of Fumigation Management Plans (FMP)

The FPMA has submitted a separate document outlining its position on the Fumigation Management Plan requirements as well as asking for a waiver for Florida fumigators from FMP requirements. The document is posted to the docket and is titled, *Florida Waiver Request*.

The *Florida Waiver Request* report places heavy emphasis on industry efforts surrounding recordkeeping and the success resulting from those efforts. The industry in Florida is unique in how the fumigators document specific items such as information posted to the state website including Notification of Fumigation, Clearance Device Registry Database and CEU submittals for training (see Appendix I). Along with other required records including required Fumigation Log Forms and DOT compliance records, the FMP would become a duplication of information for Florida fumigators and provides no new useful information that serves the purposes of an FMP in conveying risk.

The FPMA strongly supports the Panel’s assessment of the FMP requirements. The detailed arguments in the Panel’s assessment along with the Florida Waiver Request are clear. In fact, recordkeeping in Florida is better than a simple FMP template and the recordkeeping holds relevant information at relevant times unlike the FMP templates for other fumigation service types.

The FPMA opposes the EPA’s FMP language proposals and is strongly supporting its waiver request should the FMP language be pursued.

The FPMA strongly proposes that this be part of the RED and not an interim label change.

Posting registrant Stewardship plans to EPA website, imposing requirements for training content, attendees and hands on training

Florida already has adopted Rules (see Appendix III) that require Stewardship training to specific individuals both initially and annually. These Rules are significant and mandate the use of the Florida CEU program to track the participants for compliance. The Stewardship policy is an agreement between the fumigator and the manufacturer to ensure compliance with trained labelling requirements. FPMA is not certain what the “posting” to the EPA website section means and finds that it would be unwarranted to seek approval from EPA for training program changes due to the time factor involved with EPA approval mechanisms. In addition, the Stewardship policy itself is designed for each state based on the individual state regulations. The Stewardship policy must be provided to DACS as part of the registration process for residential fumigants. Revisions to the Stewardship training program content occur annually to provide up to date mandates, recommendations, and guidance to fumigators and are presented each year by registrants as a training mechanism for FDACS employees. As far as the assertion that the registrant should provide field training for fumigators, FPMA cannot support this concept.

DACS already has specific requirements for on-the-job training and experience applicants must meet prior to taking state examinations for Fumigation Category. The registrant should not be burdened with providing hands on training for fumigation operations that include liability risks for non-employees working at heights, working with ladders, working with equipment, fulfillment of obligations for fitment and fitness using SCBA, PPE and general work hazards. The registrant's job is to educate the fumigator on the elements of safe and practical use of the product. The Stewardship training program should be limited to labelling and applicable use within Rules and Law. The fumigation company is responsible for the logistics leading up to the use of the fumigant including transportation, employee training beyond Stewardship training, equipment training and use, and other company policies and standards for fumigating structures. Table 2 proposes changes to the EPA language with Rationale from FPMA.

FPMA is urging the EPA to consider these changes as proposed. Additionally, this is another item that could be placed into the RED process for the full label revisions instead of being an Interim Label change that would add nothing substantive to regulatory efforts considering the Stewardship policy is already in place as a condition of using SF fumigants in every case, in every state and every year.

The FPMA strongly supports the Panel's assessment of the EPA's proposals surrounding registrant Stewardship changes.

The FPMA proposes that proposed changes should be during the RED and not during an interim label change.

TABLE 2. EPA PROPOSED LANGUAGE FOR STEWARDSHIP REQUIREMENT AND FPMA RATIONALE FOR PROPOSED CHANGES.

EPA Proposed Language	Requested Change	Reason(s) for Change
<p>Customers: including any person, partnership, firm, corporation, or other business entity engaged in the business of structural pest control using fumigants.</p>	<p>Customers: including any person, partnership, firm, corporation, or other business entity that purchase and apply the registrant's sulfuryl fluoride product.</p>	<ol style="list-style-type: none"> 1. The registrants only know the companies that purchase their fumigants. They have no records or access to records of companies that only sell fumigation. 2. Training for prime contractors (a pest control company that sells the fumigation and subcontracts another pest control company to conduct the fumigation) is needed but is different from registrant stewardship training provided to the fumigators. Fumigation training for prime contractors can be provided by other numerous other sources, including pest control associations, Universities, and distributors, in addition to the registrants. 3. Florida Rules require Certified Operators, Special Identification Cardholders and Fumigation Endorsement Identification Cardholders attend Stewardship
<p>Persons required to take the sulfuryl fluoride registrant-provided stewardship training: "Fumigation employees: including any person directly involved in fumigating a residential structure, including but not limited to the setup of a fumigation site to meet label and state requirements, the release of fumigant, the initiation of aeration, and the clearance of a structure after fumigation.</p> <ul style="list-style-type: none"> o Certified Applicators – any person who is licensed or certified by their respective state to oversee and/or manage fumigations. o Handlers - any person who is licensed, certified, or otherwise permitted by their respective state to assist in the application of fumigants under the supervision of a Certified Applicator. 	<p>All employees (including owner or licensed employee responsible for managing/supervising the fumigation operations as required by state regulations) who introduce sulfuryl fluoride, reenter fumigated spaces wearing an SCBA, initiate aeration, and/or conduct final clearance testing.</p>	<ol style="list-style-type: none"> 1. The proposed language is too broad in stating, "any person ...including but not limited to the set-up of the site to meet label and state requirements," and could be interpreted to include workers who have no responsibility for release of fumigant, the initiation of aeration, and the clearance of a structure after fumigation. 2. In Florida, it is part of Rule that general labor such as those persons placing tarps, performing ground seal work and other general work not involving the use of fumigant or warning agent do not have to have Pest Control Identification Cards and also do not qualify as second trained persons 3. Stewardship is targeted in Florida to include all persons involved in the use of the fumigant from introduction, reentry prior to final clearance, initiation of aeration and final clearance testing

Replacing Aeration Procedures 1 and 2 with the California Aeration Plan (CAP)

The EPA is trying to force an entirely different aeration procedure on 49 other states with the California Aeration Plan (CAP). CAP was designed in California to meet California's needs and took years to develop and implement fully. The EPA is proposing an Interim Label change and date that this procedure would sweep across the nation and be the only way to aerate structures that have been fumigated. This is short-sighted and entirely impossible. The EPA needs to understand the other 49 states' individual needs and operations before it can say that one size CAP fits all (which it does not). The FPMA is heavily opposed to the CAP procedure as proposed for several reasons discussed below. The FPMA strongly supports the Panel's assessment of CAP.

CAP was designed to work in California's regulatory environment, its building types, its fumigant dosage averages, its climate and its fumigator operations. Florida has variables that California does not, including being a tropical climate with massive rain and thunderstorms, heavy winds, building construction types and regulatory differences. Florida has not had any reported incidences of exposures related to workers or bystanders during aeration and does not understand the purpose of the EPA's pursuit of such dramatic change during an Interim Label change (especially considering the time factors to implement such change). CAP equipment as it is presented to the industry now will not be tolerant to Florida weather conditions and will cause water damage in the homes through the open inlets and exhaust ducts (depending upon placement) as well as presenting other issues such as the duct being wind-blown and causing tarps to come apart. CAP's existing protocol and use pattern has not been tested in Florida and the equipment modifications have not been considered.

CAP is designed to be used on entirely tarpaulin covered structures. This is because of the negative pressure required for the process to work appropriately. Structures that are not completely tarpaulin covered such as structures that need combinations of other sealing techniques along with tarpaulin coverings, structures that are sealed using tape and seal methods or structures that are in and of themselves adequate for confinement would need substantial alteration physically to the structure to allow for the use of the exhaust ducts, fans and intake systems. Doing these types of alterations physically to a structure would cause significant and prohibitive cost measures and may also cause the structure to be more easily accessible by people or animals during the aeration phase due to open windows, doors, etc. as required for the equipment to serve the purpose with air exchange and venting. In Florida and unlike California, there are numerous fumigated structures where tarpaulins are not used at all. Florida's construction needs are different than California and often include concrete block or poured concrete walls on concrete slabs (think hurricane resistance) versus wood framing (think earthquake resistance). CAP has unique qualities designed to mitigate specific risks that arose from California regulations only. CAP at this point is not on the EPA approved Vikane label and has been used now in California by state regulations for more than a decade. CAP would need substantive review with substantive changes to the equipment and allowances for structures where it does not readily apply. These reviews and alterations to the CAP would take time and research to determine when and where CAP type aeration would apply.

CAP is not practical or possible to use on small structures such as detached garages, boats, automobiles, trailers and delicate construction types (tiki huts, sheds, mobile homes, etc.). CAP is also not practical for use on stack type or compartmentalized fumigations such as single rooms/units of a structure, pews in a church, bookcases in libraries, collections in museums and other specialty fumigations where the structure itself is not the subject of the fumigation.

The regulatory procedures in Florida are not conducive to the CAP procedure as it is written now. In Florida, 2 trained persons must be on site during the breaking of the seal and must remain on site throughout the active aeration process. The CAP procedure has a single employee beginning aeration and the active phase of this CAP aeration is anywhere from 12 to 22 hours in duration depending on the fumigation conditions. This would be impossible to keep 2 trained persons on site during the entire active aeration phase. Florida's regulatory environment would take a few years to sort through the changes needed to accommodate the CAP process. Training the fumigation companies and the regulators to the new standard would take time and money, which the state is short on following the pandemic expenses.

The EPA proposal wants to remove Aeration Procedures 1 and 2. This cannot occur as a simple matter of fact. Even in California, Aeration Procedures 1 and 2 are needed for situations where CAP cannot be completed or used, such as when tarps blow open before the end of the job due to weather or other causes. Florida's weather environment is certainly different than California considering our tropical climate and daily thunderstorms, influence from tropical weather systems, and daily coastal winds. Aeration Procedure 1 and 2 must be kept.

The FPMA would propose that the EPA keep Aeration Procedure 1 and 2 on the labeling. CAP cannot be the only aeration method on the label and other methods must exist for situations where CAP cannot be conducted.

The FPMA strongly opposes the EPA proposal to eliminate current aeration procedures and replace them with a singular option. Significant discussions and solutions must be identified for the various fumigation operations, climates, and target pest treatment methods.

The FPMA proposes that any changes to current label aeration procedures be pulled from this interim label change and placed in the RED where adequate time and consideration can be placed on solutions to problems that most definitely would exist if CAP type aerations were the only options on the label.

The FPMA supports the SF Advisory Panel's findings and strongly urges the EPA to consider its recommendations. The FPMA requests that the EPA fold these 5 items into the regular re-registration evaluation where they can be properly supported and have appropriate discussions about these items.

Appendix I. Florida Chapter 5e-14 fumigation related Rules

5E-14.102 Definitions.

(19) "Fumigation Employee" means any of the following persons who is an employee of a licensee or a person conducting fumigation at the direction of or under the control of a licensee:

- (a) Certified Operators in the fumigation category;
- (b) Special Identification Cardholders;
- (c) Employee Identification Cardholders with the Fumigation Identification Card endorsement.

(20) "Residential Fumigant" means a registered pesticide labeled for structural fumigation including or encompassing a residential area in the state of Florida.

5E-14.104 Prohibited Acts.

(7) Licensees shall not purchase a residential fumigant or perform fumigation using a residential fumigant unless the licensee and their fumigation employees have agreed to and are in compliance with the label requirements and Stewardship Policy requirements for the residential fumigant as defined in rule 5E-2.0312, F.A.C.

(8) A licensee's fumigation employee shall not perform or assist in a fumigation unless the employee has completed all training required by the Stewardship Policy for the residential fumigant to be used in the fumigation, as set forth in rule chapters 5E-14 and 5E-2, F.A.C.

5E-14.108 Fumigation Requirements – General Fumigation.

(2) Whenever the presence of two (2) persons trained in the use of the fumigant is required by the fumigant label, at least one of these persons must be either a certified operator of fumigation or a designated special identification fumigation cardholder. The second person shall be a certified fumigation operator, a special identification cardholder, or an identification cardholder with a Fumigation Identification Card endorsement on the employee identification card, which may be obtained as provided in subsection 5E-14.1421(5), F.A.C. Two (2) trained persons shall be present at each fumigation site for the introduction of the fumigant, entry during fumigation, and from the start of aeration (first opening of the seal) until the active aeration period with all operable doors and windows open, if required by the fumigant label, is completed and the structure is secured for the remaining aeration period. The certified operator in charge of fumigation or his designated special identification cardholder shall be present at those times required by the fumigant label or by subsections 5E-14.108(1), 5E-14.111(4), 5E-14.112(1) and 5E-14.113(1), (2), F.A.C.

(3) It shall be the duty of the certified operator in charge of fumigation to carry out the following:

(a) Train and/or verify training to each special fumigation identification cardholder in proper fumigation procedures as required by regulations and fumigant label directions, and to know the location, purpose, use and maintenance of personal protective equipment and fumigant detection and safety devices and when and how to use this equipment.

(b) Train each identification cardholder, assigned to fumigation work, in basic fumigation procedures, SCBA (self contained breathing apparatus) use and the proper use of fumigant safety equipment and

to report immediately to the certified operator in charge or his special fumigation identification cardholder any irregularities or emergencies.

(7) Each business licensee location performing fumigation must own at least two, label-approved, clearance devices so that at all times, a licensee has access to a properly functioning clearance device which must be calibrated in accordance with either the device manufacturer or the fumigant label directions, whichever is more restrictive.

(8) Licensees performing fumigations using a residential fumigant must ensure that all functioning and non-functioning fumigant clearance devices being used by the licensee are recorded within the department's electronic fumigation notification website at <http://fumigation.freshfromflorida.com>. Information recorded must include the name of the manufacture, serial number, last known date of calibration and operational status of each device. The department shall grant access to third parties for the purpose of verifying that the records maintained on the fumigation notification website are accurate. It is solely the licensee's obligation to ensure that all data submitted to the department is accurate.

(9) Licensees performing fumigations with a residential fumigant must agree to, in writing, and be in compliance with the Stewardship Policy requirements for the residential fumigant used, including having completed all training and quality assurance review(s) required under the relevant Stewardship Policy. New fumigation employees must receive Initial Stewardship Training on the residential fumigant(s) used by the licensee within 60 days of their first day of employment by the licensee, if the new fumigation employee did not receive that stewardship training earlier in the calendar year. Current employees of the licensee who transition to working as fumigation employees must receive Annual Stewardship Training on residential fumigant(s) used by the licensee within 60 days of receiving their new identification cards (e.g. as a certified operator for fumigation, a special identification cardholder, or an ID cardholder with a fumigation endorsement) if they did not receive that stewardship training earlier in the calendar year.

(10) A licensee subcontracting a residential fumigation job to another licensee shall inform the subcontracted licensee of the residential fumigant to be used based on the residential fumigant fact sheet provided to the customer. The subcontracted licensee shall use the residential fumigant as designated by the contracting licensee and must provide proof of stewardship training for the residential fumigant designated by the contracting licensee upon request.

5E-14.110 Fumigation Requirements – Notices.

(1) Each licensee, before performing general fumigation, shall notify the department at least twenty-four (24) hours in advance of the fumigation period. Notification shall be made utilizing the department's electronic fumigation notification website <http://fumigation.freshfromflorida.com> or by submitting by facsimile, a completed Notification of Fumigation, (FDACS-13667, Rev. 03/17), which is hereby adopted and incorporated by reference and available online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-08120>, to the facsimile number located on the form. The notice shall state the following:

(a) Company name and business location address.

(b) Accepted common or trade name and active ingredients of fumigant to be used.

(c) Name of certified operator in charge or the designated certified operator(s) or special fumigation identification card holder(s) for the fumigation, together with her or his day and night telephone numbers.

(d) Location (address), county, and type of structure (single family, multi-family, commercial, or other) and number of structures to be fumigated.

(e) Date of fumigation.

(f) Target pest.

(g) Contractor's name (if subcontracted).

(h) Approximate duration of fumigation.

(2) Any change(s) in information required in notices by this regulation shall be reported via the electronic submission website or in writing via facsimile in advance of the fumigation period.

(3) Exceptions: Notification of less than 24 hours is allowed only for verifiable situations affecting the health, safety, and welfare of the public and severe weather conditions. Notification shall be made immediately before the fumigation period by advance electronic submission via <http://fumigation.freshfromflorida.com>, or electronic mail to biirfumigation@freshfromflorida.com, or facsimile to (850)617-7968.

(4) A licensee that performs chamber or vault fumigations on the premises of the licensee's licensed business location shall notify the department annually in writing. This notice may be submitted using the electronic notification system at <http://fumigation.freshfromflorida.com>. Information required in the written notification shall include the type (or description) of chamber being used on the property (such as shipping containers, trucks, PODS, tarpaulin areas, etc.), and the days of the week and hours during which these fumigations may be performed during the year of notification. The licensee shall provide the department at least 24 hours notice of any changes in the days of the week and hours during which fumigations may be performed.

5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.

(3) Licensees performing fumigation with a residential fumigant, their employees, certified operators, and special identification cardholders shall comply with the label requirements and Stewardship Policy requirements of the residential fumigant being used.

(a) In addition, the following safety procedures shall be followed to enhance safety in the clearance of structures fumigated with a residential fumigant. The certified operator for the contracted licensee shall maintain records relating to the fumigation clearance of structures fumigated with a residential fumigant. Such records shall consist of the following information for each application:

1. Name and license number of the licensee responsible for the fumigant application;
2. Name of the person who applied the fumigant;
3. Date and time of the following: fumigant introduction, start of aeration, completion of aeration, and final testing for clearance;
4. Location of treatment site;
5. Detailed information relating to each label required clearance period including names of employees and personnel involved and start and stop times;

6. Total volume (cubic feet or other appropriate units) of the fumigated space;
7. Brand name or EPA registration number of the pesticide product applied; and,
8. Total amount in pounds or ounces, of fumigant and warning agent applied.

(b) Licensees or applicators operating in the category of fumigation shall use the Fumigation Log, (FDACS-13000, 01/17), which is hereby adopted and incorporated by reference and available online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-07904>, while onsite. Licensees or applicators operating in the category of fumigation pursuant to section 482.111(2)(a), F.S., may use an alternative fumigation log form only if it incorporates all information required to be recorded in the current Fumigation Log, (FDACS-13000, 01/17). All licensees performing fumigation shall retain any records relating to the fumigation required by this rule for a period of two (2) years from the date of the fumigation. Upon request by the department, the licensee or certified operator in charge shall make available the records required to be maintained under this rule and shall permit the authorized representative to copy or photograph any of the records. The original records shall be maintained by the licensee.

(4) The required information shall be recorded no later than two (2) working days after the date of application and may be incorporated into other business transaction records.

Appendix II. Cited Sections of Florida Chapter 482 in relation to structural fumigation

482.091 Employee identification cards.

- (1)(a) Each employee who performs pest control for a licensee must have an identification card (b) Either the licensee or the licensee's certified operator in charge must apply to the department for an identification card for each employee who will perform pest control therefor within 30 days after employment of that employee, on a form prescribed by the department. The licensee and the licensee's certified operator in charge are jointly responsible for obtaining such identification cards.
- (2)(a) An identification cardholder must be an employee of the licensee and work under the direction and supervision of the licensee's certified operator in charge and shall not be an independent contractor. An identification cardholder shall operate only out of, and for customers assigned from, the licensee's licensed business location. An identification cardholder shall not perform any pest control independently of and without the knowledge of the licensee and the licensee's certified operator in charge and shall perform pest control only for the licensee's customers.
- (b) The identification card shall be carried on the employee's person while performing or soliciting pest control and shall be presented on demand to the person for whom pest control is being performed or solicited, to any inspector of the department, or to any of such other persons as are designated by the rules of the department.
- (c) An employee may not perform pest control without carrying on her or his person a current identification card affixed with the employee's signature and current photograph.
- (d) An identification cardholder may use only the licensee's pesticides, equipment, and other materials when performing pest control.

482.111 Pest control operator's certificate.

- (1) The department shall issue a pest control operator's certificate to each individual who qualifies under this chapter. Before issuance of an original certificate, an individual must complete an application for examination, pay the examination fee required under s. 482.141, and pass the examination. Before engaging in pest control work, each certified operator must be certified as provided in this section.
- (10) Prior to the expiration date of a certificate, the certificate holder must complete 2 hours of approved continuing education on legislation, safety, pesticide labeling, and integrated pest management and 2 hours of approved continuing education in each category of her or his certificate or must pass an examination given by the department. The department may not renew a certificate if the continuing education or examination requirement is not met.
- (a) Courses or programs, to be considered for credit, must include one or more of the following topics:
1. The law and rules of this state pertaining to pest control.
 2. Precautions necessary to safeguard life, health, and property in the conducting of pest control and the application of pesticides.

3. Pests, their habits, recognition of the damage they cause, and identification of them by accepted common name.
4. Current accepted industry practices in the conducting of fumigation, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and household pest control.
5. How to read labels, a review of current state and federal laws on labeling, and a review of changes in or additions to labels used in pest control.
6. Integrated pest management.

(b) The certificate holder must submit with her or his application for renewal a statement certifying that she or he has completed the required number of hours of continuing education. The statement must be on a form prescribed by the department and must identify at least the date, location, provider, and subject of the training and must provide such other information as required by the department.

482.132 Qualifications for examination and certification.

(2) Each applicant for examination for a pest control operator's certificate must possess the minimum qualifications specified in one of the following paragraphs:

(a) Three years' employment as a service employee of a licensee that performs pest control in the category or categories in which the applicant seeks certification, 1 year of which employment must have been completed in this state during the year immediately preceding application for examination.

(b, c)[Does not apply to fumigation]

(d) A 2-year degree in general pest control technology or the equivalent from a college or university, with advanced training of 20 or more semester hours or 30 or more quarter hours of credit in entomology, plus 1 year of employment as a service employee of a licensee that performs pest control in any category or categories. Such an applicant is qualified for all examinations.

(e) Twenty-four semester hours or 36 quarter hours of courses in entomology, pest control technology, and related subjects, plus 1 year of employment as a service employee of a licensee that performs pest control in the category of general household pest, termite, and fumigation. Such an applicant is qualified only for examination in the categories of general household pest control, termite and other wood-destroying organisms pest control, and fumigation.

482.141 Examinations.

(1) Each individual seeking certification must satisfactorily pass an examination which must be written but which may include practical demonstration. The department shall hold at least two examinations each year. An applicant may seek certification in one or more categories.

482.151 Special identification card for performance of fumigation.

(1) Any individual who performs fumigation must be a special identification cardholder, unless such individual is a certified operator who is certified in the category of fumigation. When performing

fumigation, a special identification cardholder or certified operator may act only under the direction and supervision of the certified operator in charge.

(2) The department shall prescribe by rule the qualifications, privileges, duties, and limitations of holders of special identification cards.

(3) The department may issue special identification cards to qualified individuals who pass written examinations that may include practical demonstration. The application forms shall be prescribed by the department.

(4) The department, in its rules, shall provide for such matters as required qualifications for applicants for examination, written or practical phases or categories of examinations, and time of examinations.

(8) Prior to the expiration date of a special identification card, the cardholder must:

(a) Complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling and 2 hours of approved continuing education in the fumigation category; or

(b) Pass an examination in fumigation given by the department.

Appendix III. Florida Chapter 5E-2.0312 Additional Registration Requirements For Registrants of Structural Fumigants Labeled For Application to Residential Structures.

(1) Stewardship Policy. Each registrant of a residential fumigant shall adopt and maintain a written Stewardship Policy applicable to each residential fumigant registered with the department. Registrants must submit a copy of each Stewardship Policy to the department prior to selling or distributing a residential fumigant in the state of Florida and within 30 days of making any changes to the policy. A registrant shall not sell or distribute a residential fumigant to any licensee who has not agreed, in writing, to the Stewardship Policy for the residential fumigant sold or distributed.

(2) The Stewardship Policy shall include the following:

(a) Training requirements. All stewardship training shall be conducted by the registrant or their designated representative including distributors and contractors, for all fumigation employees that perform fumigation using the registrant's residential fumigant.

1. There shall be an Initial Stewardship Training and an Annual Stewardship Training. All related courses, sessions, and instruction must be identified accordingly.

2. The Initial Stewardship Training shall include:

a. Proper use, handling, and storage of the registrant's residential fumigant;

b. The proper use and calibration requirements for label-approved clearance detection devices;

c. The proper use of label-required safety equipment including the self contained breathing apparatus;

d. Review of the label, manual, Safety Data Sheets, safety procedures, and Stewardship Policy for the registrant's residential fumigant; and,

e. Dosage calculation for the registrant's residential fumigant.

3. The Annual Stewardship Training shall include:

a. Review of the proper use, handling, and care of safety equipment and clearance detection devices;

b. Review of labeling and registrant stewardship requirements for worker protection and public safety;

c. Review of any updates to registrant's residential fumigant labeling; and,

d. Review of any updates to registrant's residential fumigant Stewardship Policy.

(b) Quality assurance reviews (QAR): QARs must be conducted by the registrant or their designated representative at least once per calendar year for each licensee using the registrant's residential fumigant. The QAR shall include an on-site observation of the licensee's fumigation employees conducting a structural fumigation using the registrant's residential fumigant. The QAR may be conducted at different sites and on different fumigation employees of the licensee in order for the registrant to complete subparagraphs 1. and 2.

1. The QAR shall include observations of:

a. Preparation of structure for fumigation;

- b. Introduction of chloropicrin and registrant's residential fumigant;
 - c. Initiation of aeration and active aeration; and,
 - d. Final clearance testing.
2. The QAR shall include verification that the following items are at the fumigation site:
- a. Two (2) self-contained breathing apparatus according to the product label;
 - b. Secondary locks;
 - c. Proper signage in accordance with Rule 5E-14.112, F.A.C.;
 - d. Registrant's residential fumigant label-approved clearance devices;
 - e. Registrant's residential fumigant label-required personal protective equipment.
3. The registrant or designated representative must document the date, licensee's name, fumigation employee(s) observed, phase of fumigation process observed, and registrant representative conducting the QAR. These records shall be maintained for a two-year period from the date of the fumigation and are subject to department inspection.

(c) Probation and Stop Sale. The Stewardship Policy shall include procedures for the issuance of probation or stop sale notices to licensees who use the registrant's residential fumigant. The Stewardship Policy shall also describe options for corrective actions to be completed by a licensee in the event the registrant places a licensee on probation or issues a stop-sale notice and shall describe how corrective actions shall be determined.

1. The registrant shall place a licensee on probation or issue a stop-sale notice to a licensee if the registrant receives verifiable documentation of an observation by the registrant's employee or designated representative or a report of an inspection conducted by the department that the licensee has failed to follow critical safety procedures including the proper use of the following as determined by the registrant's residential fumigant label and Rule Chapters 5E-2 and 5E-14, F.A.C.:

- a. Chloropicrin;
- b. Self-contained breathing apparatus;
- c. Approved clearance devices;
- d. Secondary locks and barricades, or
- e. Any other safety procedure critical to the protection of workers, bystanders, homeowners, or the public as prescribed by the residential fumigant's label and Rule Chapters 5E-2 and 5E-14, F.A.C.

2. The registrant shall notify in writing, the licensee, all Florida distributors of the registrant's residential fumigant, and the department of a decision to place a licensee on probation or stop the sale and distribution of a residential fumigant to the licensee, within 15 business days of the registrant receiving confirmation that the licensee has failed to follow a critical safety procedure as outlined in subparagraph (2)(c)1., of this rule.

3. Notification to the department shall be made by utilizing the department's electronic fumigation notification website, <http://fumigation.freshfromflorida.com>, or by submitting a completed Registrant Notification of Stewardship Compliance Action (FDACS-13001, 01/17),

which is hereby adopted and incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-07899>, by email to biirfumigation@freshfromflorida.com or by facsimile to (850)617-7968.

4. The registrant shall place a licensee on probation for no less than six months if the licensee fails to follow one or more critical safety procedures as outlined in subparagraph (2)(c)1., of this rule while using the registrant's residential fumigant. Probation may be terminated at any time during the probationary period if the licensee completes all corrective actions recommended by the registrant and submits to a QAR in compliance with paragraph (1)(b).

5. The registrant shall issue an extended stop sale and stop the distribution of its residential fumigant to a licensee if within a six-month period, the licensee fails to follow two or more critical safety procedures as outlined in subparagraph (2)(c)1., while using a residential fumigant, or if the licensee fails to follow one or more critical safety procedures while on probation. The registrant shall lift the extended stop-sale only if the licensee completes all corrective actions recommended by the registrant.

Once the extended stop-sale is lifted, the registrant can resume the sale and distribution of the registrant's residential fumigant to the licensee. Upon resuming the sale and distribution of the residential fumigant to the licensee, the registrant shall place the licensee on probation for no less than six months. If the licensee fails to follow at least one critical safety procedure while on probation after the extended stop-sale, the registrant shall notify the department and recommend suspension or revocation of the licensee's license to perform residential fumigations. The registrant shall re-issue the extended stop-sale notice to the licensee if the department suspends the licensee's license to perform residential fumigations. The extended stop-sale shall remain in place until the department lifts the suspension.

6. The registrant shall issue a permanent stop-sale notice when the department revokes a licensee's license to perform residential fumigations.

7. The registrant shall notify all Florida distributors of the registrant's residential fumigant in writing when probation or a stop-sale is lifted.

(d) The Stewardship Policy shall require licensees to return any unused residential fumigant and all residential fumigant containers to the registrant upon notification of a permanent or extended stop-sale and shall require all Florida distributors of the registrant's residential fumigant who are no longer contracted by the registrant for distribution of the registrant's residential fumigant to return any unused residential fumigant and any and all residential fumigant containers to the registrant. At the request of the registrant, a department representative shall be present at the site of the licensee during the removal of the registrant's residential fumigant containers.

(3) Continuing Educational Approval. Registrants or their designated representatives must apply to the department for Continuing Educational Units (CEU) for all Stewardship Training programs. Registrants are required to use the department's designated CEU registration program website at <https://ceu.freshfromflorida.com/> or submit as instructed on the Request for Granting Continuing Education Units (CEUs) For Renewal of Pesticide Applicator Licenses and Certificates, (FDACS- 13326, Rev. 10/13) form which is incorporated by reference in Rule 5E-9.029, F.A.C.

(a) The department shall approve Annual and Initial Stewardship Training programs for the granting of CEUs in fumigation when the Stewardship Training programs meet the criteria set forth in Rule 5E-9.029, F.A.C. Annual Stewardship Training will be allocated one (1) fumigation CEU. Initial Stewardship Training will be allocated two (2) fumigation CEUs. All Stewardship Training programs shall be conducted in-person and must comply with paragraph (2)(a), of this rule.

b) The department shall be allowed to attend and monitor Stewardship Training courses conducted by the registrant to evaluate whether the training requirements set forth in paragraph (2)(a), of this rule, have been met. Department inspectors shall document their observations using the Stewardship Monitoring Report, (FDACS-13003, 01/17) which is hereby adopted and incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-07900>. Department inspectors will also provide a copy of the report to the course provider.

(c) The registrant or designated representative must conduct the Annual Stewardship Training for all licensees who use the registrant's residential fumigant. Licensees must complete the Annual Stewardship Training by June 1 of each calendar year. Additional Annual Stewardship Training sessions must be conducted for new fumigation employees hired or first assigned to fumigation activities after June 1 of a calendar year. Registrants, or their designated representatives, shall inform licensees who purchase the registrant's residential fumigant of Annual Stewardship Training in writing by mail or electronic delivery prior to training at a time interval specified by the department's CEU requirements set forth in Rule 5E-9.029, F.A.C.

(d) The registrant or designated representative must offer initial stewardship training to licensees without previous initial stewardship training for the registrant's residential fumigant unless the licensee has purchased the registrant's residential fumigant within the past three years and completed annual training during that three year period. A licensee or any of its fumigation employees required to complete the Initial Stewardship Training will not be eligible to purchase the registrant's residential fumigant until completion of the Initial Stewardship Training.

(e) A registrant shall maintain for a period of two years a record of attendance using the "Stewardship Program Attendee Form," (FDACS-13004 01/17) which is hereby adopted and incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-07901>. The registrant shall make information recorded on this form available for inspection by the department or its authorized representative upon request. The registrant may substitute their own form as long as all of the information required by the Stewardship Program Attendee Form, (FDACS 13004 01/17) is incorporated.

(4) Registrants or their designated representatives shall assist the department, at the department's request, with removing the registrant's residential fumigant containers from the possession of licensees who are subject to a stop-use or stop-work order issued by the department pursuant to Rule 5E-14.108, F.A.C.



Protecting Your Environment Since 1945

Re: Proposed Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures
Regulations.gov ID No. EPA-HQ-OPP-2009-0136-0105

To Whom It May Concern,

The Florida Pest Management Association (FPMA), the representative for professional structural pest management companies in Florida, is asking for a waiver for Florida fumigation operations from Fumigation Management Plan (FMP) requirements within the U.S. Environmental Protection Agency's proposed *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures* (EPA-HQ-OPP-2009-0136-0105) .

The FPMA represents over 4000 licensed pest management locations in Florida employing more than 7000 certified applicators and over 20,000 registered and trained technicians along with nearly 100,000 workers. Florida has the largest pest management industry in the country, accounting for 33% of U.S. pest management companies and revenues. FPMA members protect the homes, businesses, schools, food, lawns, and property investments of over 20 million Floridians and over 100 million annual visitors. Our members perform over 70,000 structural fumigations per year (second in the nation to California).

EPA should waive its proposed FMP requirements for sulfuryl fluoride products registered for residential fumigation for fumigators in Florida. The state of Florida has extensive and proven rules and laws to govern fumigator recordkeeping that meet and often exceed the FMP requirements proposed by EPA. Any additional (and potentially conflicting) FMP requirements are unnecessary based on the current Florida regulations and would pose an additional financial burden for compliance on fumigation companies, many of which are local, family-owned businesses in Florida. We greatly appreciate your consideration of this request.

Sincerely,

Leslie Herren

Leslie Herren
Executive Vice President
Florida Pest Management Association

Introduction

On May 23, 2021, the United States Environmental Protection Agency (EPA) opened a 60-day public comment, which was later extended an additional 60 days, on its proposed risk mitigation procedures for described in the document, *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures* (EPA-HQ-OPP-2009-0136-0105). The proposed risk mitigation procedures would require significant and extensive labeling changes for sulfuryl fluoride products registered for residential fumigation, specifically Vikane® gas fumigant (Douglas Products, Liberty, MO) and Zythor® (Ensystem, Fayetteville, NC). These procedures are proposed in response to recommendations in the Office of Inspector General's (OIG) 2016 report, *Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries from Residential Fumigations* (No. 17-P-0053).

The 2016 OIG report was prompted by two high profile incidents that occurred in 2015, resulting in serious injury to members of two families in the United States due to improper residential fumigation practices. One of these incidents occurred in Palm City, Florida in August, 2015. A 10-year old boy was hospitalized shortly after his family returned to their home following its fumigation with Zythor. Immediately after this incident, the Florida Department of Agriculture and Consumer Services (FDACS), which regulates pest control businesses performing structural fumigations in Florida, launched an investigation of this incident in collaboration with EPA and the Florida Department of Health. As a result of this investigation, the responsible fumigator was charged with multiple counts of using Zythor, a restricted use pesticide, in a manner inconsistent with its labeling as described in Appendix I. These violations included not conducting the label-required aeration procedures and final clearance testing to confirm the concentration of Zythor was 1 ppm or less before permitting the family to reoccupy their home.

Concurrent with this investigation, Agriculture Commissioner Adam Putnam requested the FDACS Office of Inspector General (FDACS OIG) thoroughly evaluate the state's structural fumigation regulations and FDACS's processes to enforce these regulations. The goal was to determine if there were any practical modifications in these regulations or processes that would improve fumigator compliance and regulatory oversight of sulfuryl fluoride products registered for residential fumigation (i.e., residential fumigants). As a result of this evaluation, the FDACS OIG made 11 recommendations, some of which required legislative changes. These recommendations included the following:

- Establish greater accountability of pest control businesses for violations of structural fumigation law/rules.
- Require sulfuryl fluoride registrants (of residential fumigants) to strengthen stewardship requirements.

- Require enhanced reporting for providers of continuing education courses and revise monitoring procedures for courses.
- Increase consumer awareness regarding structural fumigations and potential exposures.
- Eliminate or clarify emergency structural fumigation notification.
- Enhance FDACS methodology for selecting inspections.
- Provide all inspectors with necessary equipment.
- Enhance clearance device regulations.
- Increase the frequency of structural fumigation business inspections.
- Modify or upgrade FDACS systems to enhance recordkeeping.

All of the above listed recommendations in the FDACS OIG report were implemented by FDACS, adding to the state's already extensive regulatory requirements for fumigators who use residential fumigants.

The purpose of this report is to review these current regulations, many unique to Florida, that ensure fumigators who use these fumigants already meet the requirements of a Fumigation Management Plan (FMP) and to provide justification that Florida fumigators be waived from the FMP requirements EPA has proposed for sulfuryl fluoride residential fumigants.

The report first provides a summary of Florida-specific regulations for fumigators who apply residential fumigants, which include:

1. Fumigation Employees and their required experience and training (page 4).
2. Mandated Registrant Stewardship Programs for Residential Fumigants (page 6).
3. Sulfuryl fluoride Clearance Device Registry (page 8).
4. Notice of Fumigation (page 9).
5. Fumigation Log (page 10).
6. Unique Attributes of Florida Fumigation Regulations That Fulfill Requirements of a Fumigation Management Plan (page 12).

The report also describes the abundant and comprehensive required and optional educational opportunities in Florida who apply residential fumigants, as described in:

1. Fumigation Training Opportunities in Florida (page 7).
2. University of Florida School of Structural Fumigation (page 7).

The report next provides a history of Florida's implementation of the FDACS OIG report, which took nearly two years to complete and involved, among other things, revisions to two statutes. If the currently proposed FMP requirements were mandated in Florida, a completely unnecessary process (for reasons described in the first section) of implementation would be required. This process would likely cause confusion for Florida fumigators and regulators as to which FMP regulations have precedence if there is any conflict between state rules and labeling requirements. The unintended consequences of any conflicts between Florida's now well-established and well-functioning regulatory scheme and EPA's proposals could be a reduction in

the safety of fumigations in Florida during, or even after, the implementation process. This outcome and the associated burdens on Florida fumigators and their customers can be avoided by waiving the proposed FMP requirements for Florida fumigators, and potentially for fumigators in other states that can demonstrate to EPA that they have similarly comprehensive and effective safety requirements.

Regulations in Florida for Fumigators Who Apply Residential Fumigants

Fumigation Employees and their required experience and training. In Florida, a “fumigation employee” is any of the following persons who is an employee of a licensed pest control company that conducts fumigation: (a) Certified Operators (CO) in the fumigation category; (b) Special Identification Cardholders (SPID); (c) Employee Identification Cardholders with the Fumigation Identification Card endorsement (FID) (5E-14.102 (19), Appendix II). In Florida, these three types of fumigation employees must have an identification card in order to perform or assist at fumigations (Chapter 482.091(1)(a), Appendix III). The training and testing requirements for each of these three types of fumigation employees to initially obtain and annually renew their identification cards differ and are described in Table 1. All fumigation employees require on the job fumigation experience and training by their employer to obtain their initial fumigation identification cards. The CO and SPID must also pass a state certification exam before they obtain their initial fumigation identification cards. All fumigation employees who perform fumigations using residential fumigants must provide FDACS with verification that they have completed the registrant-provided stewardship training to renew (and initially obtain for the FID) their fumigation identification cards.

Table 1. Requirements for Identification Cards for Florida Fumigation Employees.

Category	Training/Experience Required to Obtain Initial Identification Card for Fumigation ¹	Completion of State Certification Exam Required for Initial Identification Card for Fumigation	Continuing Education Required for Annual Renewal of Fumigation Identification Card ¹
Certified Operator (CO)	Yes - 3 years employment as a service employee by a company performing fumigation OR college education in pests, pesticides, pest control practices and one year employment as a service employee by a company performing fumigation (Chapter 482.132, Appendix III). Employment is verified on Employment Service form FDACS-13627, Rev. 10/15 (Appendix V). Transcripts are required to document formal education.	Yes - After verifying required experience/formal education in fumigation obtained	Yes – Two hours of fumigation training and two hours of CORE safety training. Registrant-provided stewardship training for residential fumigants can fulfill part or all fumigation training.
Special Identification Cardholder (SPID)	Yes - Participate in a minimum of 15 fumigations in Florida under the supervision of a CO and document these fumigations on form FDACS-13653, Rev.10/15 (Appendix VI).	Yes - After verifying required experience in fumigation obtained.	Yes – Two hours of fumigation training and two hours of CORE safety training.
Employee Identification Cardholders with the Fumigation Identification Card endorsement (FID)	Yes - CO in charge of fumigation must train FID in basic fumigation procedures and proper use of fumigant safety equipment including SCBA, and to report immediately to the CO or SPID any irregularities or emergencies (5E-14.108(3)(b), Appendix II).	No – Special training to perform fumigation affidavit required FDACS-13002, 01/17, Appendix VII), signed by the prospective FID and by the licensee or CO in charge for fumigation, stating the prospective FID cardholder has received the required training ((5E-14.1421(6), Appendix II).	Yes – Registrant-provided stewardship training for residential fumigants. Registrant-provided stewardship training for residential fumigants can fulfill part or all fumigation training.

¹All fumigation employees who participate in fumigations using a residential fumigant must complete registrant-provided stewardship training and submit verification of this training to FDACS to renew (and initially obtain for the FID) their fumigation employee identification card each year (5E-14.1421(5), Appendix II).

In Florida, whenever the presence of two (2) persons trained in the use of the fumigant is required by the fumigant label, at least one of these persons must be either a certified operator (CO) of fumigation or a designated special identification fumigation cardholder (SPID). The second person must be a CO, SPID, or an identification cardholder with a Fumigation Identification Card endorsement on the employee identification card (FID) (5E-14.108(2), Appendix II). Therefore, Florida is the only state that requires specific fumigation employee identification, employer-provided training, and registrant-provided stewardship training for the “second trained person” assisting with application and aeration of residential fumigants.

Mandated Registrant Stewardship Programs for Residential Fumigants. Florida is the only state that requires each registrant of a residential fumigant maintain a written stewardship policy for its residential fumigant (5E-2.0312(2), Appendix IV) that includes the following:

- Initial and annual stewardship training, and
- Procedures for the issuance and corrective actions for removal of probation or stop sale notices for fumigators who fail to conduct critical safety procedures.

The registrant cannot sell a residential fumigant to a fumigator who has not agreed, in writing, to the stewardship policy for the residential fumigant. Concurrently, Florida requires fumigators performing fumigations with a residential fumigant to agree in writing and be in compliance with the stewardship policy requirements for the residential fumigant used, including having completed all required training (5E-14.108(9), Appendix II).

Florida is the only state which requires the registrant of residential fumigants to apply to FDACS for Continuing Education Unit (CEUs) for its initial and annual stewardship training (5E-2.0312(3), Appendix IV). As part of Florida regulations for providers of CEU programs for the pest control industry, registrants must notify FDACS of the date, time, location, and trainer for each stewardship training program. This enables FDACS inspectors to attend these programs to verify, using the stewardship monitoring report form (FDACS-13003 01/17, Appendix VIII), registrant compliance with all CEU and stewardship training requirements. The number of stewardship training sessions formally monitored by FDACS inspectors were seventeen in 2018-19, eleven in 2019-2020, and eight in 2020-2021. (Reduced numbers of stewardship training sessions were monitored by FDACS in 2020-2021 due to COVID19 work restrictions for state employees on attending in-person training programs). As part of the CEU stewardship training program, the trainer has each attendee sign a stewardship program attendee form (FDACS-13004 01/17, Appendix IX), which serves the following purposes:

- By signing the form, the attendee agrees to comply with the registrant's stewardship policy, as required by 5E-14.108(9) (Appendix II).
- The fumigation company can use this form to verify to FDACS that its fumigation employees, who perform fumigations using the specified residential fumigant, can renew (and initially obtain for the FID) their fumigation identification cards.

Florida is the only state that requires a registrant of residential fumigants to put a fumigation company on probation or stop-sale if the registrant receives verifiable documentation that any of its fumigation employees failed to critical safety procedures in use of its residential fumigant (5E-2.0312(2)(c), Appendix IV). The registrant must notify in writing the fumigation company, all Florida distributors of the registrant's residential fumigant, and FDACS of the probation or stop sale. FDACS has established an electronic fumigation notification website <http://fumigation.freshfromflorida.com>, which registrants can use to notify FDACS of initiation and termination of probations and stop sales. The advantage of using this website is that all registrants and distributors of residential fumigants in Florida automatically receive notification by email of probation and stop actions entered in the website. This notification system is beneficial because it notifies all sulfuryl fluoride registrants and distributors of a fumigation company on probation that could have have possible operational problems in using a residential fumigant, and of a fumigation company on stop sale that should not be sold a residential fumigant until the stop sale is terminated. The registrant can also submit the notification to FDACS by email, email, or fax using the Registrant Notification of Stewardship Compliance Action (FDACS-13001, 01/17, Appendix X). When a fumigation company is placed on stop sale by the registrant or by FDACS, it can no longer submit a Notification of Fumigation to the FDACS website as required by state law (see Notice of Fumigation).

Fumigation Training Opportunities in Florida. The state of Florida's requirements for registrants of residential fumigants result in many CEU-approved initial and annual stewardship training sessions conducted each year for fumigation employees. On average each year, over 120 CEU hours of stewardship training is offered by Douglas Products and over 50 CEU hours of stewardship training is offered by Ensystem.

In addition, the Florida Pest Management Association (FPMA) and the Certified Pest Control Operators (CPCO) of Florida offer over 50 CEU hours of fumigation-specific training opportunities per year on a variety of topics, such as DOT requirements for transporting fumigants, fumigation equipment updates, OSHA requirements for SCBA and ladder safety, and techniques for conducting speciality fumigations. In Florida, COs and SPIDs in Fumigation must obtain each year 2 CEU hours of fumigation training and 2 CEU hours of CORE training (Table 1). CORE training includes general topics such as pesticide mode of action, safe use of pesticides, Florida pesticide rules and regulations, and label comprehension. Typically registrant-provided annual stewardship training is approved for 2 CEU hours and fulfills the fumigation training requirement. The 2 CEU hours for CORE training is offered by a variety of providers, including the University of Florida, FPMA and CPCO, and pesticide registrants and distributors. CORE training programs are available in-person and online.

University of Florida 2021 Fumigation Manual. The second edition of the University of Florida Fumigation Manual (T. Chouvinc, E. Thoms, S. Brantley, and W. H. Kern, Jr.; Executive editor and contributor R. H. Scheffrahn, University of Florida IFAS Extension publication no. SP340,

Version 2.01, last modified 09-10-2021, 234 pp) was just released this month (September 2021). The manual is available for downloading using the following link: <https://flrec.ifas.ufl.edu/florida-fumigation-manual/>. This manual is the culmination of more than two years of collaboration between University of Florida faculty , FDACS, and professionals from the fumigation industry to revise the first edition 2005 University of Florida Fumigation Manual. The second edition is free of charge and provides the most up-to-date fumigation training resource in any U.S. state. The Fumigation Manual is the primary source reference for fumigators studying to take the FDACS fumigation certification exam and for FDACS to prepare questions for this exam. No hard copy of the 2021 Fumigation Manual has been produced. This manual is downloaded as a PDF file to a computer, phone, or tablet and is formatted to be printer-friendly. The purpose for the digital format of the Fumigation Manual is to allow flexibility for updating when label changes occur, such as those resulting from the current EPA OIG recommendations and registration review of sulfuryl fluoride and other fumigants.

University of Florida School of Structural Fumigation. The School of Structural Fumigation is the only course of its kind in the US. During the five-day program, instruction in classroom, hands-on workshops, and field demonstrations is provided by more than 15 fumigators, manufacturer representatives, regulators, and University of Florida faculty with structural fumigation expertise (see <https://conference.ifas.ufl.edu/fumigation/> for a complete description). The School of Structural Fumigation has been conducted since 1989, and has been hosted on the University of Florida Davie campus since 2003. Class size is limited to 60 students to ensure individual attention for participants, who are work in small groups for hands-on training. The day after the Fumigation School ends, FDACS offers exams for CO and SPID fumigation certification, which participants register for directly with FDACS prior to the School. More than half the students take these state certification exams. The majority of these students, often 95% and above, pass these difficult state fumigation certification exams.

Sulfuryl fluoride Clearance Device Registry. Florida is the only state that requires fumigation companies that apply residential fumigants to register their sulfuryl fluoride clearance devices using the FDACS electronic notification website at <http://fumigation.freshfromflorida.com> (5E-14.108(8), Appendix II). Information about the each clearance device recorded in this registry must include the name of the manufacturer, serial number, proof of purchase or how the device was acquired, last known date of calibration and operational status (Figure 1). Florida requires each fumigation company location performing fumigation must own at least two, label-approved, properly functioning sulfuryl fluoride clearance devices which must be calibrated in accordance with either the device manufacturer or the fumigant label directions, whichever is more restrictive (5E-14.108(7), Appendix II). The registry will send email alerts to a fumigation company beginning 14 days before the expiration of calibration of a clearance device registered by the company. For efficiency, authorized service providers for the clearance device manufacturers have permission to access this registry to update calibration verification of

clearance devices for fumigation companies. The clearance device registry is linked to the Notice of Fumigation website. When a fumigation company does not have at least two operational, calibrated sulfuryl fluoride clearance devices, FDACS issues an electronic stop sale and the fumigation company can no longer submit a Notice of Fumigation to the FDACS website as required by state law (see “Notice of Fumigation” discussed below).

Figure 1. Screenshot of FDACS Sulfuryl Fluoride Clearance Device Registry for Fumigators Applying Residential Fumigants.

Florida Department of Agriculture and Consumer Services

Department Home Agricultural Environmental Services Logout

Clearance Device Search

Pest Control Company *

Pest Control Company License #

Search Reset Cancel

Add New Device Stop Sale

Device Manufacturer	Serial Number	Calibration Date	Person Calibrating	In Use?	Received Date	Expired Date	
SPECTROS EXPLORIR (365 Days)	KZ1011	8/5/2021	BRANTLEY, SEAN	Y			Edit
SPECTROS EXPLORIR (365 Days)	17082503	8/5/2021	BRANTLEY, SEAN	Y			Edit
SPECTROS EXPLORIR (365 Days)	LX1002	5/14/2021	BRANTLEY, SEAN	Y			Edit
SPECTROS EXPLORIR (365 Days)	SZ1000	12/7/2020	BRANTLEY, SEAN	Y			Edit

Notice of Fumigation. A fumigation company must notify FDACS at least 24 hours before performing a fumigation (5E-14.110(1)-(4), Appendix II). Notification is made using the FDACS electronic fumigation notification website <http://fumigation.freshfromflorida.com>. The notification must include the following information (Figure 2):

- (a) Company name and business location address.
- (b) Accepted common or trade name and active ingredients of fumigant to be used.
- (c) Name of certified operator in charge or the designated certified operator(s) or special fumigation identification card holder(s) for the fumigation, together with her or his day and night telephone numbers.
- (d) Location (address), county, and type of structure (single family, multi-family, commercial, or other) and number of structures to be fumigated.
- (e) Date of fumigation.
- (f) Target pest.
- (g) Contractor’s name (if subcontracted).
- (h) Approximate duration of fumigation.

The fumigation company must update the Notice of Fumigation (NOF) using the website if there are any changes in the reported information, such as rescheduling the date of the fumigation. Notification of less than 24 hours is allowed only for verifiable situations affecting the public health, safety, and welfare and for severe weather conditions.

FDACS uses the NOF information for numerous purposes for regulatory compliance by fumigators, including:

- Scheduling field inspections of fumigations.
- Tracking fumigations conducted by county, fumigation company, and month to ensure proper deployment of department resources for compliance inspections, conducted in the field and in the office, of fumigation companies.

Figure 2. Screenshot of Notification of Fumigation Website.

Florida Department of Agriculture and Consumer Services

[Department Home](#) [Agricultural Environmental Services](#) [Logout](#)

Notification of Fumigation

Company Performing the Fumigation

Company License # * Company Name

Company Address

Fumigant Trade Name * Fumigant Active Ingredients

Certified Operator in Charge of Fumigation * Day Phone * Night/Emergency Phone *

If Subcontracted, Select Contracting Company (Required) *

Site/Description of Property

Street Address of Property *

City * Zip Code * County * Date of Fumigation *

Number of Structures to be Fumigated * Approximate Duration of Fumigation (hrs) * From To Target Pest * Reason for Less than 24 Hour NOF

Type of Structure * Other Type of Structure *

Structure Use * Other Structure Use *

Fumigation Log. The CO or SPID are required to use a Fumigation Log (FDACS-13000, 01/17, Appendix XI) when onsite at a fumigation using a residential fumigant (5E-14.142(3)-(4),

Appendix II). An alternative fumigation log may be used only if it incorporates all information required to be recorded in the FDACS Fumigation Log. The required information must be recorded in the fumigation log form by two working days after the date of fumigant application. Fumigation companies must retain log forms for two years from the date of the fumigation.

Information required to be recorded in this log form for use of a residential fumigant is the most complete of any state and includes the following:

1. Name and license number of the fumigation employee responsible for the fumigant application;
2. Name of the fumigation employee(s) who applied the fumigant;
3. Date and time of the following: fumigant introduction, start of aeration, completion of aeration, and final testing for clearance;
4. Location of treatment site;
5. Detailed information relating to each label required clearance period including names of employees and personnel involved and start and stop times;
6. Total volume (cubic feet or other appropriate units) of the fumigated space;
7. Brand name or EPA registration number of the pesticide product applied; and,
8. Total amount in pounds or ounces, of fumigant and warning agent applied.

Hazardous Material Employee Training: The Department of Transportation (DOT) requires employees complete the Hazardous Material Employee Training (49 CFR § 172.700 HM-232, Appendix XII). The CO, SPID and FID are considered a Hazardous Material Employee and must receive this training. Part of this training on hazards associated with sulfuryl fluoride, personal protective equipment to prevent overexposure, and first aid are in the annual registrant-provided stewardship training. Additional company-specific procedures including cylinder security during transport and emergency response are provided to fumigation employees by the fumigation company.

As part of the compliance for US DOT Hazardous Materials Drivers, fumigation companies are required to have specific safety items in place which provide additional layers of safety when storing, transporting, and handling fumigants. Some of the specific requirements for fumigators transporting residential fumigants include:

- Written Emergency Response Plan
- Shipping papers and emergency response contact information
- Written safety plans for in-transit, facility, and personnel
- DOT Hazmat drivers must be drug tested prior to employment and enrolled in random drug testing programs
- Vehicles must be inspected and meet requirements
- Hazmat training for employees, managers, drivers
 - Emergency Response information

- Employee protection measure
- Procedures for incident avoidance
- Reporting procedures
- In addition, drivers must qualify through stringent background checks, physical fitness testing, state certification and traffic compliance history
- Management must have specific training to identify impaired drivers/employees

Fumigation companies transport the residential fumigant to the fumigation site and therefore must meet all of the above mentioned DOT requirements as part of their overall compliance scheme. This is unlike soil or non-soil commodity fumigations, where the fumigant is typically delivered by common carrier directly to the fumigation site. For these fumigators who are not transporting the fumigant, they do not need to comply with the additional training, written plans, and testing required by DOT. As a result of transporting residential fumigants, Florida fumigators using these fumigants have significant documentation, training, and testing as part of the overall plan to prevent accidents, identify appropriate emergency procedures and demonstrate compliance with safety requirements.

Unique Attributes of Florida Fumigation Regulations That Fulfill Requirements of a Fumigation Management Plan. Florida is the only state that mandates the following in its regulations for registrants of and fumigators applying residential fumigants:

- All fumigation employees (CO, SPID, and FID as defined by state regulations) must provide FDACS with verification that they have completed the registrant-provided stewardship training to initially obtain or renew their fumigation identification cards.
- Fumigation employee identification, employer-provided training, and registrant-provided stewardship training is required for the “second trained person” assisting with application and aeration of residential fumigants.
- The registrant must maintain a written stewardship policy for its residential fumigant that includes initial and annual stewardship training, and procedures for the issuance and corrective actions for removal of probation or stop sale notices for fumigators who fail to conduct critical safety procedures.
- Fumigators must agree in writing to be in compliance with the stewardship policy requirements for the residential fumigant used, including having completed all required training.
- The registrant must apply to FDACS for Continuing Education Unit (CEUs) for its initial and annual stewardship training.
- The registrant must put a fumigation company on probation or stop-sale if the registrant receives verifiable documentation that any of the fumigation company employees (i.e., CO, SPID, FID) failed to conduct critical safety procedures in use of its residential fumigant.

The registrant must notify in writing the fumigation company, all Florida distributors of the registrant's residential fumigant, and FDACS of the probation or stop sale.

- Fumigation companies must have at least two operational, calibrated sulfuryl fluoride clearance devices. Fumigation companies must register their sulfuryl fluoride clearance devices in a registry on the FDACS electronic notification website.
- Fumigation companies must submit a Notice of Fumigation (NOF) to an FDACS website at least 24 hours before the fumigation. This NOF website is linked to the sulfuryl fluoride clearance device registry and registrant notification for stop sale. A fumigation company which does not have at least two operational, calibrated sulfuryl fluoride clearance devices or is placed on stop sale by a registrant or FDACS can no longer submit a NOF to the FDACS website.
- Fumigation companies are required to document, using the most complete log form of any state, information about each site fumigated. FDACS worked with Association of Structural Pest Control Regulatory Officials (ASPCRO), Florida Pest Management Association (FPMA), Certified Pest Control Operators (CPCO) of Florida, National Pest Management Association (NPMA), and Region 4 of EPA to review information documented in the log form to ensure it would meet the requirements of an FMP.

The documentation of fumigation employees with an identification card, who have on the job fumigation training by their employer, have passed rigorous state certification exams (for the CO and SPID), and have verifiable registrant-provided stewardship training through the CEU process fulfill labeling requirements for residential fumigants of having certified and trained personnel in charge of the fumigation, especially when "two trained persons" must be present, for regulatory compliance. The unique FDACS Sulfuryl Fluoride Clearance Device registry, NOF system, and extensive Fumigation Log provide the necessary documentation of information needed for a Fumigation Management Plan. In addition, the linking of registrant and FDACS stop sale notifications and the Sulfuryl Fluoride Clearance Device registry with the NOF system ensures that a fumigation company without two operational, calibrated sulfuryl fluoride clearance devices or with other documented safety violations cannot continue to purchase or conduct fumigations using a residential fumigant until these violations are verified to be corrected. The regulations and processes in Florida that meet the requirements of an FMP are more extensive and comprehensive than those proposed by EPA for sulfuryl fluoride residential fumigant labeling. For this reason, Florida fumigators should be waived from any specific FMP requirements for sulfuryl fluoride residential fumigant labeling as currently proposed by EPA.

Complicated and Lengthy Rulemaking Process in Florida

Implementing many of the recommendations in the FDACS OIG report to address the 2015 Sunland incident required extensive revisions and additions in the Florida rule requirements for fumigators who use residential fumigants (Chapter 5E-14) and for registrants of residential fumigants (Chapter 5E-2.0312). These changes are highlighted in yellow in Chapter 5E-14 (Appendix II) which required the development of many new forms, including the Special Taking to Perform Fumigation Affidavit Form, FDACS-13002, 01/17 (Appendix VII), Stewardship Monitoring Report Form, FDACS-13003 01/17 (Appendix VIII) Stewardship Program Attendee Form, FDACS-13004 01/17 (Appendix IX). Registrant Notification Stewardship Compliance Action Form, FDACS-13001, 01/17 (Appendix X), and Fumigation Log Form, FDACS-13000, 01/17 (Appendix XI). A new section was added to Chapter 5E-2 entitled "Additional Registration Requirements For Registrants of Structural Fumigants Labeled For Application to Residential Structures," (Chapter 5E-2.0312, Appendix IV).

These revisions to Florida rules involved two phases, which took nearly two years to complete. The first phase was to amend state statutes to give FDACS the authority to promulgate all the new rules required to address the Sunland incident. Revisions in two state statutes, 482.051 and 487.051, were required and are listed in Appendices XIII and XVI, respectively. By the time the Sunland incident occurred, FDACS had already created its omnibus bill with requested legislative changes to meet the annual legislative process cycle in Florida. Instead, FDACS had to identify one member in both the House and the Senate of the Florida state legislature to sponsor a bill specific for the statute changes required to address the Sunland incident. Then the Speaker of the House and the President of the Senate had to assign the bill to three committees in each branch (i.e., a total of six committees) for review. The proposed changes to the statutes were relatively simple, not controversial, and did not require additional funding. Therefore, FDACS was able to find influential sponsors in the House and Senate to sponsor the bill and had the support of the Speaker of the House and the President of the Senate. As a result, the bill moved without challenge to meet the deadlines for the following required actions:

November 20, 2015: Deadline for submitting request for draft of the bill.

January 8, 2016: Deadline for approving final drafts of the bill.

January 12, 2016: Deadline for filing the bill for introduction into the legislature.

February 27, 2016: The day the bill was certified.

March 25, 2016: The Governor signed the legislation that approved the changes to Florida Statutes 482 and 487.

July 1, 2016: The revised statutes went into effect on this date.

The second phase was to amend the state rules to implement the recommendations of the FDACS OIG report to address the Sunland incident. FDACS immediately started the rulemaking process in July 2016, as permitted by the revised statutes, to complete the required actions by the following dates:

July 14, 2016: A notice of rule development was published online in the Florida Administrative Register (FAR), the official compilation of agency notices published each day.

September 23, 2016: FDACS held the first of several workshops for fumigators, registrants, distributors, pest control associations, University experts, and others in the fumigation industry to develop and revise the proposed rule language to address the recommendations for the FDACS OIG report. FDACS worked with Association of Structural Pest Control Regulatory Officials (ASPCRO), National Pest Management Association (NPMA), FPMA, CPCO of Florida, and Region 4 of EPA to review proposed rule language. Rule language was revised and created for Rule 5E-14 (highlighted sections in Appendix II) and 5E-2.032 (Appendix IV). The drafted rules then required approval from the Florida Commissioner of Agriculture, Adam Putnam.

April 17, 2017: FDACS submitted a copy of the rule and supporting materials to Joint Administrative Procedures Committee (JAPC) 21 days prior to adoption. JAPC reviewed the rule for any technical and substantive errors and consulted with FDACS. No hearings were requested, and the validity of the rule was not challenged by any substantially affected person.

May 7 2017: The new rules for 5E-14 (highlighted sections in Appendix II) and 5E-2.032 (Appendix IV) were adopted.

June 1, 2017: The new rules for 5E-14 (highlighted sections in Appendix II) and 5E-2.032 (Appendix IV) were implemented.

The regulations and processes in Florida that meet the requirements of an FMP are more extensive and comprehensive than those proposed by EPA sulfuryl fluoride residential fumigant labeling. For this reason, Florida fumigators should be waived from any specific FMP requirements for sulfuryl fluoride residential fumigant labeling as currently proposed by EPA. In addition, any revisions in the comprehensive FMP process mandated by Florida regulations, as required by labeling changes in sulfuryl fluoride residential fumigants, would take years to complete following the complicated Florida rulemaking process. During this time period there would be confusion for Florida fumigators and regulators as to which FMP regulations have precedence if there is any conflict between state rules and labeling requirements.

APPENDIX I. Charges made by the Florida Department of Agriculture and Consumer Services against Sunland Pest Control Services Inc. for using Zythor, a restricted use pesticide, in manner inconsistent with its labeling during fumigation of a single-family residence conducted in Palm City, Florida in August 2015.

(A) Prior to the application of Zythor, Sunland

- (1) Failed to provide the required Zythor Fumigant Structure Occupant Fact Sheet to an adult occupant of the structure to be fumigated;
- (2) Failed to open all operable interior doors, openings to rooms, attics, sub-areas, storage rooms and closets; and
- (3) Failed to shut off natural gas service to the structure at the main service valve.

(B) Subsequent to Application of Zythor and During Aeration and Clearance Sunland

- (1) Failed to have two persons trained in the use of the restricted use pesticide, present on site from the first opening of the tent seal until securing of the structure at the end of the initial aeration period;
- (2) Failed to use a required, approved respiratory protection device to enter the fumigated space at the first opening on the tent seal and during the aeration procedure when the concentration of the restricted use pesticide within the breathing zone of the fumigated space is unknown;
- (3) Failed to aerate the fumigated space with all operable exterior windows and doors open, aided by the use of one or more fans capable of displacing at least 5,000 cubic feet of air per minute, for a minimum of one hour.
- (4) Failed to post standard warning signs around the fumigated structure during the removal of the tent and ensuring those warning signs remain posted until aeration was complete and final clearance for re-occupancy was given; and
- (5) Failed to conduct a required clearance of the fumigated structure following a complete aeration procedure by sampling the air within the breathing zone of the fumigated space with an approved and properly calibrated Low Fumigant Level Detection Device until measured levels of the restricted use pesticide were less than one part per million within the breathing zone of the fumigated space.

(C) Clearance and Re-Occupancy Notification Sunland failed to:

- (1) Hang a clearance and re-occupancy notice on the front entrance to the fumigated structure without completing the mandated aeration and clearance procedure; and
- (2) Failed to post the clearance and re-occupancy notice on all other exterior doors to the fumigated structure.

Appendix II. Cited Sections of Florida Chapter 5E-14.

5E-14.102 Definitions.

(19) "Fumigation Employee" means any of the following persons who is an employee of a licensee or a person conducting fumigation at the direction of or under the control of a licensee:

(a) Certified Operators in the fumigation category;

(b) Special Identification Cardholders;

(c) Employee Identification Cardholders with the Fumigation Identification Card endorsement.

(20) "Residential Fumigant" means a registered pesticide labeled for structural fumigation including or encompassing a residential area in the state of Florida.

5E-14.104 Prohibited Acts.

(7) Licensees shall not purchase a residential fumigant or perform fumigation using a residential fumigant unless the licensee and their fumigation employees have agreed to and are in compliance with the label requirements and Stewardship Policy requirements for the residential fumigant as defined in rule 5E-2.0312, F.A.C.

(8) A licensee's fumigation employee shall not perform or assist in a fumigation unless the employee has completed all training required by the Stewardship Policy for the residential fumigant to be used in the fumigation, as set forth in rule chapters 5E-14 and 5E-2, F.A.C.

5E-14.108 Fumigation Requirements – General Fumigation.

(2) Whenever the presence of two (2) persons trained in the use of the fumigant is required by the fumigant label, at least one of these persons must be either a certified operator of fumigation or a designated special identification fumigation cardholder. The second person shall be a certified fumigation operator, a special identification cardholder, or an identification cardholder with a Fumigation Identification Card endorsement on the employee identification card, which may be obtained as provided in subsection 5E-14.1421(5), F.A.C. Two (2) trained persons shall be present at each fumigation site for the introduction of the fumigant, entry during fumigation, and from the start of aeration (first opening of the seal) until the active aeration period with all operable doors and windows open, if required by the fumigant label, is completed and the structure is secured for the remaining aeration period. The certified operator in charge of fumigation or his designated special identification cardholder shall be present at those times required by the fumigant label or by subsections 5E-14.108(1), 5E-14.111(4), 5E-14.112(1) and 5E-14.113(1), (2), F.A.C.

(3) It shall be the duty of the certified operator in charge of fumigation to carry out the following:

Appendix II. Cited Sections of Florida Chapter 5E-14 (cont'd).

(a) Train and/or verify training to each special fumigation identification cardholder in proper fumigation procedures as required by regulations and fumigant label directions, and to know the location, purpose, use and maintenance of personal protective equipment and fumigant detection and safety devices and when and how to use this equipment.

(b) Train each identification cardholder, assigned to fumigation work, in basic fumigation procedures, SCBA (self contained breathing apparatus) use and the proper use of fumigant safety equipment and to report immediately to the certified operator in charge or his special fumigation identification cardholder any irregularities or emergencies.

(7) Each business licensee location performing fumigation must own at least two, label-approved, clearance devices so that at all times, a licensee has access to a properly functioning clearance device which must be calibrated in accordance with either the device manufacturer or the fumigant label directions, whichever is more restrictive.

(8) Licensees performing fumigations using a residential fumigant must ensure that all functioning and non-functioning fumigant clearance devices being used by the licensee are recorded within the department's electronic fumigation notification website at <http://fumigation.freshfromflorida.com>. Information recorded must include the name of the manufacture, serial number, last known date of calibration and operational status of each device. The department shall grant access to third parties for the purpose of verifying that the records maintained on the fumigation notification website are accurate. It is solely the licensee's obligation to ensure that all data submitted to the department is accurate.

(9) Licensees performing fumigations with a residential fumigant must agree to, in writing, and be in compliance with the Stewardship Policy requirements for the residential fumigant used, including having completed all training and quality assurance review(s) required under the relevant Stewardship Policy. New fumigation employees must receive Initial Stewardship Training on the residential fumigant(s) used by the licensee within 60 days of their first day of employment by the licensee, if the new fumigation employee did not receive that stewardship training earlier in the calendar year. Current employees of the licensee who transition to working as fumigation employees must receive Annual Stewardship Training on residential fumigant(s) used by the licensee within 60 days of receiving their new identification cards (e.g. as a certified operator for fumigation, a special identification cardholder, or an ID cardholder with a fumigation endorsement) if they did not receive that stewardship training earlier in the calendar year.

(10) A licensee subcontracting a residential fumigation job to another licensee shall inform the subcontracted licensee of the residential fumigant to be used based on the residential fumigant fact sheet provided to the customer. The subcontracted licensee shall use the residential fumigant as designated by the contracting licensee and must provide proof of stewardship training for the residential fumigant designated by the contracting licensee upon request.

Appendix II. Cited Sections of Florida Chapter 5E-14 (cont'd).

5E-14.110 Fumigation Requirements – Notices.

(1) Each licensee, before performing general fumigation, shall notify the department at least twenty-four (24) hours in advance of the fumigation period. Notification shall be made utilizing the department's electronic fumigation notification website <http://fumigation.freshfromflorida.com> or by submitting by facsimile, a completed Notification of Fumigation, (FDACS-13667, Rev. 03/17), which is hereby adopted and incorporated by reference and available online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-08120>, to the facsimile number located on the form. The notice shall state the following:

- (a) Company name and business location address.
- (b) Accepted common or trade name and active ingredients of fumigant to be used.
- (c) Name of certified operator in charge or the designated certified operator(s) or special fumigation identification card holder(s) for the fumigation, together with her or his day and night telephone numbers.
- (d) Location (address), county, and type of structure (single family, multi-family, commercial, or other) and number of structures to be fumigated.
- (e) Date of fumigation.
- (f) Target pest.
- (g) Contractor's name (if subcontracted).
- (h) Approximate duration of fumigation.

(2) Any change(s) in information required in notices by this regulation shall be reported via the electronic submission website or in writing via facsimile in advance of the fumigation period.

(3) Exceptions: **Notification of less than 24 hours is allowed only for verifiable situations affecting the health, safety, and welfare of the public and severe weather conditions.** Notification shall be made immediately before the fumigation period by advance electronic submission via <http://fumigation.freshfromflorida.com>, or electronic mail to biirfumigation@freshfromflorida.com, or facsimile to (850)617-7968.

(4) A licensee that performs chamber or vault fumigations on the premises of the licensee's licensed business location shall notify the department annually in writing. This notice may be submitted using the electronic notification system at <http://fumigation.freshfromflorida.com>. Information required in the written notification shall include the type (or description) of chamber being used on the property (such as shipping containers, trucks, PODS, tarpaulin areas, etc.), and the days of the week and hours during which these fumigations may be performed during the year of notification. The licensee shall provide the department at least 24 hours notice of any changes in the days of the week and hours during which fumigations may be performed.

Appendix II. Cited Sections of Florida Chapter 5E-14 (cont'd).

5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.

(3) Licensees performing fumigation with a residential fumigant, their employees, certified operators, and special identification cardholders shall comply with the label requirements and Stewardship Policy requirements of the residential fumigant being used.

(a) In addition, the following safety procedures shall be followed to enhance safety in the clearance of structures fumigated with a residential fumigant. The certified operator for the contracted licensee shall maintain records relating to the fumigation clearance of structures fumigated with a residential fumigant. Such records shall consist of the following information for each application:

1. Name and license number of the licensee responsible for the fumigant application;
2. Name of the person who applied the fumigant;
3. Date and time of the following: fumigant introduction, start of aeration, completion of aeration, and final testing for clearance;
4. Location of treatment site;
5. Detailed information relating to each label required clearance period including names of employees and personnel involved and start and stop times;
6. Total volume (cubic feet or other appropriate units) of the fumigated space;
7. Brand name or EPA registration number of the pesticide product applied; and,
8. Total amount in pounds or ounces, of fumigant and warning agent applied.

(b) Licensees or applicators operating in the category of fumigation shall use the Fumigation Log, (FDACS-13000, 01/17), which is hereby adopted and incorporated by reference and available online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-07904>, while onsite. Licensees or applicators operating in the category of fumigation pursuant to section 482.111(2)(a), F.S., may use an alternative fumigation log form only if it incorporates all information required to be recorded in the current Fumigation Log, (FDACS-13000, 01/17). All licensees performing fumigation shall retain any records relating to the fumigation required by this rule for a period of two (2) years from the date of the fumigation. Upon request by the department, the licensee or certified operator in charge shall make available the records required to be maintained under this rule and shall permit the authorized representative to copy or photograph any of the records. The original records shall be maintained by the licensee.

(4) The required information shall be recorded no later than two (2) working days after the date of application and may be incorporated into other business transaction records.

Appendix III. Cited Sections of Florida Chapter 482 in relation to structural fumigation.

482.091 Employee identification cards.

- (1)(a) Each employee who performs pest control for a licensee must have an identification card
- (b) Either the licensee or the licensee's certified operator in charge must apply to the department for an identification card for each employee who will perform pest control therefor within 30 days after employment of that employee, on a form prescribed by the department. The licensee and the licensee's certified operator in charge are jointly responsible for obtaining such identification cards.
- (2)(a) An identification cardholder must be an employee of the licensee and work under the direction and supervision of the licensee's certified operator in charge and shall not be an independent contractor. An identification cardholder shall operate only out of, and for customers assigned from, the licensee's licensed business location. An identification cardholder shall not perform any pest control independently of and without the knowledge of the licensee and the licensee's certified operator in charge and shall perform pest control only for the licensee's customers.
- (b) The identification card shall be carried on the employee's person while performing or soliciting pest control and shall be presented on demand to the person for whom pest control is being performed or solicited, to any inspector of the department, or to any of such other persons as are designated by the rules of the department.
- (c) An employee may not perform pest control without carrying on her or his person a current identification card affixed with the employee's signature and current photograph.
- (d) An identification cardholder may use only the licensee's pesticides, equipment, and other materials when performing pest control.

482.111 Pest control operator's certificate.

- (1) The department shall issue a pest control operator's certificate to each individual who qualifies under this chapter. Before issuance of an original certificate, an individual must complete an application for examination, pay the examination fee required under s. 482.141, and pass the examination. Before engaging in pest control work, each certified operator must be certified as provided in this section.
- (10) Prior to the expiration date of a certificate, the certificate holder must complete 2 hours of approved continuing education on legislation, safety, pesticide labeling, and integrated pest management and 2 hours of approved continuing education in each category of her or his certificate or must pass an examination given by the department. The department may not renew a certificate if the continuing education or examination requirement is not met.

Appendix III. Cited Sections of Florida Chapter 482 in relation to structural fumigation (cont'd).

(a) Courses or programs, to be considered for credit, must include one or more of the following topics:

1. The law and rules of this state pertaining to pest control.
2. Precautions necessary to safeguard life, health, and property in the conducting of pest control and the application of pesticides.
3. Pests, their habits, recognition of the damage they cause, and identification of them by accepted common name.
4. Current accepted industry practices in the conducting of fumigation, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and household pest control.
5. How to read labels, a review of current state and federal laws on labeling, and a review of changes in or additions to labels used in pest control.
6. Integrated pest management.

(b) The certificate holder must submit with her or his application for renewal a statement certifying that she or he has completed the required number of hours of continuing education. The statement must be on a form prescribed by the department and must identify at least the date, location, provider, and subject of the training and must provide such other information as required by the department.

482.132 Qualifications for examination and certification.

(2) Each applicant for examination for a pest control operator's certificate must possess the minimum qualifications specified in one of the following paragraphs:

(a) Three years' employment as a service employee of a licensee that performs pest control in the category or categories in which the applicant seeks certification, 1 year of which employment must have been completed in this state during the year immediately preceding application for examination.

(b, c)[Does not apply to fumigation]

(d) A 2-year degree in general pest control technology or the equivalent from a college or university, with advanced training of 20 or more semester hours or 30 or more quarter hours of credit in entomology, plus 1 year of employment as a service employee of a

Appendix III. Cited Sections of Florida Chapter 482 in relation to structural fumigation (cont'd).

licensee that performs pest control in any category or categories. Such an applicant is qualified for all examinations.

(e) Twenty-four semester hours or 36 quarter hours of courses in entomology, pest control technology, and related subjects, plus 1 year of employment as a service employee of a licensee that performs pest control in the category of general household pest, termite, and fumigation. Such an applicant is qualified only for examination in the categories of general household pest control, termite and other wood-destroying organisms pest control, and fumigation.

482.141 Examinations.

(1) Each individual seeking certification must satisfactorily pass an examination which must be written but which may include practical demonstration. The department shall hold at least two examinations each year. An applicant may seek certification in one or more categories.

482.151 Special identification card for performance of fumigation.

(1) Any individual who performs fumigation must be a special identification cardholder, unless such individual is a certified operator who is certified in the category of fumigation. When performing fumigation, a special identification cardholder or certified operator may act only under the direction and supervision of the certified operator in charge.

(2) The department shall prescribe by rule the qualifications, privileges, duties, and limitations of holders of special identification cards.

(3) The department may issue special identification cards to qualified individuals who pass written examinations that may include practical demonstration. The application forms shall be prescribed by the department.

(4) The department, in its rules, shall provide for such matters as required qualifications for applicants for examination, written or practical phases or categories of examinations, and time of examinations.

(8) Prior to the expiration date of a special identification card, the cardholder must:

(a) Complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling and 2 hours of approved continuing education in the fumigation category; or

(b) Pass an examination in fumigation given by the department.

Appendix IV. Florida Chapter 5E-2.0312 Additional Registration Requirements For Registrants of Structural Fumigants Labeled For Application to Residential Structures.

(1) Stewardship Policy. Each registrant of a residential fumigant shall adopt and maintain a written Stewardship Policy applicable to each residential fumigant registered with the department. Registrants must submit a copy of each Stewardship Policy to the department prior to selling or distributing a residential fumigant in the state of Florida and within 30 days of making any changes to the policy. A registrant shall not sell or distribute a residential fumigant to any licensee who has not agreed, in writing, to the Stewardship Policy for the residential fumigant sold or distributed.

(2) The Stewardship Policy shall include the following:

(a) Training requirements. All stewardship training shall be conducted by the registrant or their designated representative including distributors and contractors, for all fumigation employees that perform fumigation using the registrant's residential fumigant.

1. There shall be an Initial Stewardship Training and an Annual Stewardship Training. All related courses, sessions, and instruction must be identified accordingly.

2. The Initial Stewardship Training shall include:

- a. Proper use, handling, and storage of the registrant's residential fumigant;
- b. The proper use and calibration requirements for label-approved clearance detection devices;
- c. The proper use of label-required safety equipment including the self contained breathing apparatus;
- d. Review of the label, manual, Safety Data Sheets, safety procedures, and Stewardship Policy for the registrant's residential fumigant; and,
- e. Dosage calculation for the registrant's residential fumigant.

3. The Annual Stewardship Training shall include:

- a. Review of the proper use, handling, and care of safety equipment and clearance detection devices;
- b. Review of labeling and registrant stewardship requirements for worker protection and public safety;
- c. Review of any updates to registrant's residential fumigant labeling; and,
- d. Review of any updates to registrant's residential fumigant Stewardship Policy.

(b) Quality assurance reviews (QAR): QARs must be conducted by the registrant or their designated representative at least once per calendar year for each licensee using the registrant's residential fumigant. The QAR shall include an on-site observation of the licensee's fumigation employees conducting a structural fumigation using the registrant's residential fumigant. The QAR may be conducted at different sites and on different fumigation employees of the licensee in order for the registrant to complete subparagraphs 1. and 2.

Appendix IV. Florida Chapter 5E-2.0312 Additional Registration Requirements For Registrants of Structural Fumigants Labeled For Application to Residential Structures (cont'd).

1. The QAR shall include observations of:
 - a. Preparation of structure for fumigation;
 - b. Introduction of chloropicrin and registrant's residential fumigant;
 - c. Initiation of aeration and active aeration; and,
 - d. Final clearance testing.
2. The QAR shall include verification that the following items are at the fumigation site:
 - a. Two (2) self-contained breathing apparatus according to the product label;
 - b. Secondary locks;
 - c. Proper signage in accordance with Rule 5E-14.112, F.A.C.;
 - d. Registrant's residential fumigant label-approved clearance devices;
 - e. Registrant's residential fumigant label-required personal protective equipment.
3. The registrant or designated representative must document the date, licensee's name, fumigation employee(s) observed, phase of fumigation process observed, and registrant representative conducting the QAR. These records shall be maintained for a two-year period from the date of the fumigation and are subject to department inspection.

(c) Probation and Stop Sale. The Stewardship Policy shall include procedures for the issuance of probation or stop sale notices to licensees who use the registrant's residential fumigant. The Stewardship Policy shall also describe options for corrective actions to be completed by a licensee in the event the registrant places a licensee on probation or issues a stop-sale notice and shall describe how corrective actions shall be determined.

1. The registrant shall place a licensee on probation or issue a stop-sale notice to a licensee if the registrant receives verifiable documentation of an observation by the registrant's employee or designated representative or a report of an inspection conducted by the department that the licensee has failed to follow critical safety procedures including the proper use of the following as determined by the registrant's residential fumigant label and Rule Chapters 5E-2 and 5E-14, F.A.C.:
 - a. Chloropicrin;
 - b. Self-contained breathing apparatus;
 - c. Approved clearance devices;
 - d. Secondary locks and barricades, or
 - e. Any other safety procedure critical to the protection of workers, bystanders, homeowners, or the public as prescribed by the residential fumigant's label and Rule Chapters 5E-2 and 5E-14, F.A.C.

Appendix IV. Florida Chapter 5E-2.0312 Additional Registration Requirements For Registrants of Structural Fumigants Labeled For Application to Residential Structures (cont'd).

2. The registrant shall notify in writing, the licensee, all Florida distributors of the registrant's residential fumigant, and the department of a decision to place a licensee on probation or stop the sale and distribution of a residential fumigant to the licensee, within 15 business days of the registrant receiving confirmation that the licensee has failed to follow a critical safety procedure as outlined in subparagraph (2)(c)1., of this rule.

3. Notification to the department shall be made by utilizing the department's electronic fumigation notification website, <http://fumigation.freshfromflorida.com>, or by submitting a completed Registrant Notification of Stewardship Compliance Action (FDACS-13001, 01/17), which is hereby adopted and incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-07899>, by email to biirfumigation@freshfromflorida.com or by facsimile to (850)617-7968.

4. The registrant shall place a licensee on probation for no less than six months if the licensee fails to follow one or more critical safety procedures as outlined in subparagraph (2)(c)1., of this rule while using the registrant's residential fumigant. Probation may be terminated at any time during the probationary period if the licensee completes all corrective actions recommended by the registrant and submits to a QAR in compliance with paragraph (1)(b).

5. The registrant shall issue an extended stop sale and stop the distribution of its residential fumigant to a licensee if within a six-month period, the licensee fails to follow two or more critical safety procedures as outlined in subparagraph (2)(c)1., while using a residential fumigant, or if the licensee fails to follow one or more critical safety procedures while on probation. The registrant shall lift the extended stop-sale only if the licensee completes all corrective actions recommended by the registrant.

Once the extended stop-sale is lifted, the registrant can resume the sale and distribution of the registrant's residential fumigant to the licensee. Upon resuming the sale and distribution of the residential fumigant to the licensee, the registrant shall place the licensee on probation for no less than six months. If the licensee fails to follow at least one critical safety procedure while on probation after the extended stop-sale, the registrant shall notify the department and recommend suspension or revocation of the licensee's license to perform residential fumigations. The registrant shall re-issue the extended stop-sale notice to the licensee if the department suspends the licensee's license to perform residential fumigations. The extended stop-sale shall remain in place until the department lifts the suspension.

6. The registrant shall issue a permanent stop-sale notice when the department revokes a licensee's license to perform residential fumigations.

Appendix IV. Florida Chapter 5E-2.0312 Additional Registration Requirements For Registrants of Structural Fumigants Labeled For Application to Residential Structures (cont'd).

7. The registrant shall notify all Florida distributors of the registrant's residential fumigant in writing when probation or a stop-sale is lifted.

(d) The Stewardship Policy shall require licensees to return any unused residential fumigant and all residential fumigant containers to the registrant upon notification of a permanent or extended stop-sale and shall require all Florida distributors of the registrant's residential fumigant who are no longer contracted by the registrant for distribution of the registrant's residential fumigant to return any unused residential fumigant and any and all residential fumigant containers to the registrant. At the request of the registrant, a department representative shall be present at the site of the licensee during the removal of the registrant's residential fumigant containers.

(3) Continuing Educational Approval. Registrants or their designated representatives must apply to the department for Continuing Educational Units (CEU) for all Stewardship Training programs. Registrants are required to use the department's designated CEU registration program website at <https://ceu.freshfromflorida.com/> or submit as instructed on the Request for Granting Continuing Education Units (CEUs) For Renewal of Pesticide Applicator Licenses and Certificates, (FDACS- 13326, Rev. 10/13) form which is incorporated by reference in Rule 5E-9.029, F.A.C.

(a) The department shall approve Annual and Initial Stewardship Training programs for the granting of CEUs in fumigation when the Stewardship Training programs meet the criteria set forth in Rule 5E-9.029, F.A.C. Annual Stewardship Training will be allocated one (1) fumigation CEU. Initial Stewardship Training will be allocated two (2) fumigation CEUs. All Stewardship Training programs shall be conducted in-person and must comply with paragraph (2)(a), of this rule.

b) The department shall be allowed to attend and monitor Stewardship Training courses conducted by the registrant to evaluate whether the training requirements set forth in paragraph (2)(a), of this rule, have been met. Department inspectors shall document their observations using the Stewardship Monitoring Report, (FDACS-13003, 01/17) which is hereby adopted and incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-07900>. Department inspectors will also provide a copy of the report to the course provider.

(c) The registrant or designated representative must conduct the Annual Stewardship Training for all licensees who use the registrant's residential fumigant. Licensees must complete the Annual Stewardship Training by June 1 of each calendar year. Additional Annual Stewardship Training sessions must be conducted for new fumigation employees hired or first assigned to fumigation activities after June 1 of a calendar year. Registrants, or their designated representatives, shall inform licensees who purchase the registrant's residential fumigant of Annual Stewardship Training in writing by mail or electronic delivery prior to training at a time interval specified by the department's CEU requirements set forth in Rule

5E-9.029, F.A.C.

(d) The registrant or designated representative must offer initial stewardship training to licensees without previous initial stewardship training for the registrant's residential fumigant unless the licensee has purchased the registrant's residential fumigant within the past three years and completed annual training during that three year period. A licensee or any of its fumigation employees required to complete the Initial Stewardship Training will not be eligible to purchase the registrant's residential fumigant until completion of the Initial Stewardship Training.

(e) A registrant shall maintain for a period of two years a record of attendance using the "Stewardship Program Attendee Form," (FDACS-13004 01/17) which is hereby adopted and incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-07901>. The registrant shall make information recorded on this form available for inspection by the department or its authorized representative upon request. The registrant may substitute their own form as long as all of the information required by the Stewardship Program Attendee Form, (FDACS 13004 01/17) is incorporated.

(4) Registrants or their designated representatives shall assist the department, at the department's request, with removing the registrant's residential fumigant containers from the possession of licensees who are subject to a stop-use or stop-work order issued by the department pursuant to Rule 5E-14.108, F.A.C.

Appendix V. Employment Service Form, FDACS-13627, Rev. 10/15



NICOLE "NIKKI" FRIED
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Agricultural Environmental Services

EMPLOYMENT SERVICE

Section 570.07(22), F.S. and Rule 5E-14.117, F.A.C.
Telephone: 850-817-7907

Return to:
Bureau of Licensing and
Enforcement
3125 Conner Blvd, Bldg 8,
Tallahassee, FL 32399-1850

Instructions to applicant: This form is to be used to document in-state and out-of-state pest control service employment for examination qualification. Use a separate form for each employer.

SECTION A: To be completed by Applicant

Name of Applicant: _____ DOB: _____

Applicant Address: _____
(Street) (City) (State) (Zip Code)

Applicant Name during Employment (if different): _____

SECTION B: To be completed by Employer

Business Name: _____ Contact Person: _____

Business Address: _____
(Street) (City) (State) (Zip Code)

I hereby certify that _____ (Applicant) was a pest control service employee and while so employed, performed pest control in the category(ies) of:

(Please mark ALL that apply.)

- Fumigation
- General Household Pest and Rodent Control
- Lawn and Ornamental Pest Control
- Termite Control

Furthermore, our records reflect that this applicant was employed FROM: _____ TO: _____
(Month) (Day) (Year) (Month) (Day) (Year)

I further certify that any of the above pest control which was performed by this employee within the State of Florida was performed as a Florida Identification cardholder and under the direction and supervision of a Florida certified pest control operator certified in the category(ies) of pest control indicated above.

Original Signature of Employer or Certified Operator _____ Witness (OTHER THAN applicant, employer or certified operator) _____

Print Name _____ Date _____ Print Name _____ Date _____

Title _____ JP certificate number, (if applicable) _____ Witness Address _____

Telephone Number _____ Witness City, State & Zip Code _____

Appendix VI. Documented Pesticide Application for Certification Exam Qualification Form, FDACS-13653, Rev.10/15.



Florida Department of Agriculture and Consumer Services
Division of Agricultural Environmental Services

**DOCUMENTED PESTICIDE APPLICATION
FOR CERTIFICATION EXAM QUALIFICATION**

Section 570.07(22), F.S. and Rule 5E-14.117, F.A.C.
Telephone: (850) 617-7997

Respond to:
Bureau of Licensing and
Enforcement
3125 Conner Blvd, Bldg 8,
Tallahassee, FL 32399-1850

IMPORTANT DIRECTIONS – Applicants must provide proof of practical experience by documenting 45 pesticide application records (15 for fumigation and special identification card) to qualify for the certification exam. These forms must be legible. Separate forms must be submitted for each category and each certified operator. Applicants for Fumigation and Special Identification Card exams need to document 15 records and submit the first page only. All other applicants must submit both page one and page two.

Applicant Name: _____ Employee Identification Card No. _____

The following pesticide applications document my experience in the category checked:

Fumigation/SPID Termites/WDO Pest Control Lawn & Ornamental Pest Control General Household Pest Control

	Name of Property Owner	Address	Pest Treated	Date Performed
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

I do hereby certify that the above named applicant has participated in within this State and under the supervision of a certified operator in the following pest control applications and has demonstrated the requisite knowledge to supervise such work with regards to safety of both persons and property.

WITNESS (other than applicant or certified operator)

Signature of Certified Operator

Print Name Date

Print Operator Name Date

WITNESS ADDRESS:

OPERATOR ADDRESS:

FL Certificate No: _____

Appendix VII. Special Taking to Perform Fumigation Affidavit Form, FDAS-13002, 01/17.



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Agricultural Environmental Services

**SPECIAL TRAINING TO PERFORM
FUMIGATION AFFIDAVIT**

Rule 5E-14.1421, F.A.C.
Telephone: (850) 617-7967

Respond to:
Bureau of Licensing and
Enforcement
3125 Corner Blvd, Bldg 8,
Tallahassee, FL 32399-1650

STATE OF FLORIDA, COMPANY NAME _____
COUNTY OF _____ AND LICENSE NUMBER _____
ADDRESS _____

On this day personally appeared BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgements,

(First Name) (Middle Name) (Last Name)

who resides at _____
(Street or rural address) (City) (State) (Zip)

Date of Birth (mm/dd/yyyy) Email Address

who being first duly sworn deposes and says as follows:

I hereby certify that I have received initial stewardship training associated with any or all residential fumigants used by the licensee and adequate training under the supervision of a Certified Operator, certified in the category of pest control with respect to fumigation, in the proper and safe handling and use of residential fumigants. I further certify that such training included the following:

- (a) Initial Stewardship training as described in Chapter 5E-2.0312, Florida Administrative Code (F.A.C.);
- (b) Proper Personal Protective Equipment, including Self Contained Breathing Apparatus as described in Chapter 5E-14.108, F.A.C.; and
- (c) Applicable federal, state and local laws and ordinances.

I further certify that I will not perform a fumigation unless under the supervision of either a certified operator who is certified in the category of fumigation, or a Special Identification Cardholder operating under authority of the certified operator in charge of the fumigation category.

I understand that an Identification Card issued and carrying with it authorization to perform fumigation shall be used in accordance with the provisions of Sections 482.091, Florida Statutes.

Signature of prospective Identification Cardholder

Signature of Licensee or Certified Operator in Charge

Sworn to and Subscribed before me _____

Title or Position

this _____ day of _____, A.D. 20 _____

Personally Known: Yes No


Produced ID: Type _____

SEAL

Notary Public

(This Affidavit is not required of Certified Operators certified in the category of fumigation).

Appendix VIII. Stewardship Monitoring Report Form, FDACS-13003 01/17.



Florida Department of Agriculture and Consumer Services
Division of Agricultural Environmental Services

STEWARDSHIP MONITORING REPORT

Rule 5E-2.0312, F.A.C.
Telephone: (850) 617-7998

Submit to:
Bureau of Inspection and
Incident Response
3125 Corner Blvd., Suite N,
Tallahassee, FL 32306-1850

NICOLE "NIKKI" FRIED
COMMISSIONER

(PROGRAM TITLE) _____ (PROGRAM ID.) _____ (DATE MONITORED) _____

(CLASS LOCATION – BUILDING NAME, ADDRESS, CITY, COUNTY, STATE, ZIPCODE) _____

(PROVIDER/INSTRUCTOR NAME) _____

PROGRAM TYPE: Initial Stewardship Training Annual Stewardship Training

RESIDENTIAL FUMIGANT INVOLVED: VIKANE® ZYTHOR® MASTERFUME® OTHER _____

Please verify the following items	YES	NO	N/A
1. Were all courses, sessions and training instruction identified as either Initial or Annual training?			
2. Was the training conducted by the product registrant or their designated representative?			
3. Was training offered to any end user performing fumigation using their product?			
4. IF this was an Initial Stewardship Training Program, did the training cover:			
a. The proper use, handling and storage of the registrant's residential fumigant?			
b. The proper use and calibration requirements for label approved clearance devices?			
c. The proper use of label required safety equipment and safety procedures?			
d. A review of the label, manual, Safety Data Sheets (SDS) and written stewardship policy?			
e. How to calculate the proper residential fumigant dosage?			
5. IF this was an Annual Stewardship Training Program, did the training cover:			
a. A review of the proper use, handling, and care of safety equipment, including but not limited to label approved clearance device and/or self contained breathing apparatus?			
b. A review of the key labeling and registrant stewardship requirements for worker protection and public safety?			
c. A review of any updates to the registrant's residential fumigant labeling?			
d. A review of any updates to the registrant's residential fumigant stewardship policy?			
6. Did the registrant apply for Continuing Education Units for this program using the web-based program?			
7. Start Time: _____ End Time: _____ Was time sufficient for awarded credit hours?			
8. Did the registrant/instructor appear to have a working knowledge of the training subjects?			
9. Did the registrant/instructor keep a sign-in sheet to verify attendance?			
10. Did the registrant/instructor provide proof of training and/or distribute the CEU Attendance form at the end of training to all attendees?			

(if any item was NO, please explain:
Comments: _____

.....
(Signature of person interviewed)

.....
(Issuing Field Inspector)

(Print Name)

FDACS-13003 01/17

Appendix IX. Stewardship Program Attendee Form, FDACS-13004 01/17.



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Agricultural Environmental Services

STEWARDSHIP PROGRAM ATTENDEE FORM

Rule 5E-2.0312, F.A.C.
Telephone: (850) 617-7068, Fax: (850) 617-7068

Respond to:
Bureau of Inspection and
Incident Response
3125 Corner Blvd, Suite N,
Tallahassee, FL 32399-1650

Fumigation Product:		<input type="checkbox"/> Vikane®	<input type="checkbox"/> Zytron®	<input type="checkbox"/> MasterFume®	CEU Program #:	
Type of Stewardship:		<input type="checkbox"/> Initial Training <input type="checkbox"/> Annual Training				
Instructor Name:						Affiliation:
Instructor Telephone #:		Email Address:				
Date of Training:		City:	State:			
LIST ALL ATTENDEES						
Attendees agree to all conditions and terms of stewardship product. Failure of the fumigator to actively support product stewardship may result in the termination of the fumigator's rights and ability to purchase Residential Fumigants. (CPO – Certified Pest Control Operator SPID – Special Identification Card Holder)						
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
License Number:		Email:				
License Type:		<input type="checkbox"/> CPO <input type="checkbox"/> SPID <input type="checkbox"/> Employee		Cell phone:		
Printed Name:						Signature:
Company/Employer Name:		Company License Number:				
COMMENTS/ISSUES REGARDING THIS TRAINING SESSION:						

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Appendix X. Registrant Notification Stewardship Compliance Action Form, FDACS-13001, 01/17.



Florida Department of Agriculture and Consumer Services
Division of Agricultural Environmental Services

**REGISTRANT NOTIFICATION OF
STEWARDSHIP COMPLIANCE ACTION**

Rule 5E-2.0312, F.A.C.
Telephone: (850) 617-7968, Fax: (850) 617-7968

Respond to:
Bureau of Inspection and
Incident Response
3125 Corner Blvd, Suite N,
Tallahassee, FL 32309-1850

Residential Fumigant:	<input type="checkbox"/> Vikane®	<input type="checkbox"/> Zythor®	<input type="checkbox"/> MasterFume®	Date:	
Registrant Name:					
Registrant Address:					
City:		State:		Zip Code:	
Registrant Telephone #:		Email Address:			
<p>Pursuant to Rule 5E-2.0312 Florida Administrative Code, the above registrant is notifying the department of a licensee who has had either a probation decision or a stop-sale decision due to a deficiency in a critical safety procedure while using a registrant's Residential Fumigant. This form shall be issued with each instance and satisfaction.</p>					
Licensee Business Name:				License Number:	
Business Address:					
Business City:		State:		Zip Code:	
Licensee Phone #:		Email:			
Decision Type:	<input type="checkbox"/> Probation	Initiation Period:	(At Least) <input type="checkbox"/> Six Months <input type="checkbox"/> 1 year		
	<input type="checkbox"/> Stop-Sale		<input type="checkbox"/> Permanent		
Reasons for Action:					
Date Deficiencies Satisfied:		Person Authorizing Release:			
COMMENTS/ISSUES REGARDING THIS COMPLIANCE ACTION:					

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FDACS-13001 01/17

Appendix XI. Fumigation Log Form, FDACS-13000, 01/17.



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Agricultural Environmental Services

FUMIGATION LOG

Rule 56-14.142, F.A.C.
Telephone: (850) 617-7066; Fax: (850) 617-7068

Respond to:
Bureau of Inspection and
Incident Response
3125 Corner Blvd, Suite N,
Tallahassee, FL 32309-1850

Fumigation Company:		License #:			
Fumigation Site Address:					
Date & Time of Arrival:		Target Pest:			
Type of Structure:	Frame Crawl <input type="checkbox"/>	Masonry Crawl <input type="checkbox"/>	Garage Attached <input type="checkbox"/>		
	Frame Slab <input type="checkbox"/>	Masonry Slab <input type="checkbox"/>	Garage Detached <input type="checkbox"/>		
TENT UP INFORMATION - List All Personnel/ Crew Members Involved					
Name of COIC - Fumigation:		Credential #:	COIC Phone #:		
Name of SPID:		Credential #:			
Name of Crew Member:		Credential #:			
Name of Crew Member:		Credential #:			
Calculator Used:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Hours Exposure:	OZ-Hr Required:		
Dosage Factor:		Relative Humidity:			
Tarp Condition:		Amp per fan:	Pic Total (oz)		
Seal Condition:			Number of Pic Sites:		
Wind (mph):		Estimated HLT:	Ounces per Site:		
Volume (MCF):		Dosage (oz/MCF):			
Undersal:		Gas Required (Lb):			
Temperature (F):		Max Release Rate:			
INTRODUCTION INFORMATION -					
Fumigant Used:		Pounds Applied:	Cylinder #:		
Time of Release:			Lot #:		
TEAR DOWN INFORMATION - List All Personnel/ Crew Members Involved					
Name of COIC - Fumigation:		Credential #:	COIC Phone #:		
Name of SPID:		Credential #:			
Name of Crew Member:		Credential #:			
Name of Crew Member:		Credential #:			
Date:	Arrival Time:	Time Seal Broken:			
Active 1 hour Aeration	Start:	Passive Aeration	Start:		
	Finish:		Finish:		
CLEARANCE INFORMATION - Structure cleared to 1ppm or less					
Date:		Detector Used:			
Time:		Last Calibration Date:			
Cleared by:		Credential #:			
Job Monitored? <input type="checkbox"/> Yes <input type="checkbox"/> No - If Monitored - Readings: In oz/1000 ft ³					
Location:	Equilibrium Readings ¹	Interim Readings ²	Terminal Readings	Hours Elapsed Between Readings ³	Actual HLT (hr)
1)					
2)					
3)					
4)					
5)					
Average:					
¹ Use Function 1 if your first readings are not at equilibrium ² Recommended 3-6 hr after equilibrium ³ Hr between equilibrium and terminal readings					
Correction information (additional gas in lbs, if needed):					
COMMENTS/ISSUES REGARDING THIS JOB:					

FDACS-13000 01/17

Appendix XII. Department of Transportation Requirement for Hazmat Employee Training (49 CFR § 172.700 HM-232).

(a) Hazmat employee training must include the following:

(1) General awareness/familiarization training. Each hazmat employee shall be provided general awareness/familiarization training designed to provide familiarity with the requirements of this subchapter, and to enable the employee to recognize and identify hazardous materials consistent with the hazard communication standards of this subchapter.

(2) Function-specific training.

(i) Each hazmat employee must be provided function-specific training concerning requirements of this subchapter, or exemptions or special permits issued under subchapter A of this chapter, that are specifically applicable to the functions the employee performs.

(ii) As an alternative to function-specific training on the requirements of this subchapter, training relating to the requirements of the ICAO Technical Instructions and the IMDG Code may be provided to the extent such training addresses functions authorized by subpart C of part 171 of this subchapter.

(3) Safety training. Each hazmat employee shall receive safety training concerning -

(i) Emergency response information required by subpart G of part 172;

(ii) Measures to protect the employee from the hazards associated with hazardous materials to which they may be exposed in the workplace, including specific measures the hazmat employer has implemented to protect employees from exposure; and

(iii) Methods and procedures for avoiding accidents, such as the proper procedures for handling packages containing hazardous materials.

(4) Security awareness training. Each hazmat employee must receive training that provides an awareness of security risks associated with hazardous materials transportation and methods designed to enhance transportation security. This training must also include a component covering how to recognize and respond to possible security threats. New hazmat employees must receive the security awareness training required by this paragraph within 90 days after employment.

(5) In-depth security training. Each hazmat employee of a person required to have a security plan in accordance with subpart I of this part who handles hazardous materials covered by the plan, performs a regulated function related to the hazardous materials covered by the plan, or is responsible for implementing the plan must be trained concerning the security plan and its implementation. Security training must include company security objectives, organizational security structure, specific security procedures, specific security duties and responsibilities for each employee, and specific actions to be taken by each employee in the event of a security breach.

(b) OSHA, EPA, and other training. Training conducted by employers to comply with the hazard communication programs required by the Occupational Safety and Health

Appendix XII. Department of Transportation Requirement for Hazmat Employee Training (49 CFR § 172.700 HM-232)(cont'd.).

Administration of the Department of Labor (29 CFR 1910.120 or 1910.1200) or the Environmental Protection Agency

(40 CFR 311.1), or training conducted by employers to comply with security training programs required by other Federal or international agencies, may be used to satisfy the training requirements in paragraph (a) of this section to the extent that such training addresses the training components specified in paragraph (a) of this section.

(c) Initial and recurrent training -

(1) Initial training. A new hazmat employee, or a hazmat employee who changes job functions may perform those functions prior to the completion of training provided -

(i) The employee performs those functions under the direct supervision of a properly trained and knowledgeable hazmat employee; and

(ii) The training is completed within 90 days after employment or a change in job function.

(2) Recurrent training. A hazmat employee must receive the training required by this subpart at least once every three years. For in-depth security training required under paragraph (a)(5) of this section, a hazmat employee must be trained at least once every three years or, if the security plan for which training is required is revised during the three-year recurrent training cycle, within 90 days of implementation of the revised plan.

(3) Relevant Training. Relevant training received from a previous employer or other source may be used to satisfy the requirements of this subpart provided a current record of training is obtained from hazmat employees' previous employer.

(4) Compliance. Each hazmat employer is responsible for compliance with the requirements of this subchapter regardless of whether the training required by this subpart has been completed.

(d) Recordkeeping. Each hazmat employer must create and retain a record of current training of each hazmat employee, inclusive of the preceding three years, in accordance with this section for as long as that employee is employed by that employer as a hazmat employee and for 90 days thereafter. A hazmat employer must make a hazmat employee's record of current training available upon request, at a reasonable time and location, to an authorized official of the Department of Transportation or of an entity explicitly granted authority to enforce the HMR. The record must include:

(1) The hazmat employee's name;

(2) The most recent training completion date of the hazmat employee's training;

(3) A description, copy, or the location of the training materials used to meet the requirements in paragraph (a) of this section;

(4) The name and address of the person providing the training; and

(5) Certification that the hazmat employee has been trained and tested, as required by this subpart.

Appendix XIII. Revisions (in Red) Required in Statute 482.051 for FDACS to Initiate a Rule-Making Process.

482.051 Rules.—The department may adopt rules to implement the provisions of this chapter. Before proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public which require:

(1) That all pesticides or economic poisons be used only in accordance with the registered labels and labeling or as directed by the United States Environmental Protection Agency or the department.

(2) That vehicles and trailers used in pest control be permanently marked with the licensee's name that is registered with the department. However, vehicles that are used to perform only sales and solicitation may have temporary or removable markers.

(3) That written contracts be required for providing termites and other wood-destroying organisms pest control, that provisions necessary to assure consumer protection as specified by the department be included in such contracts, and that require licensees to comply with the contracts issued.

(4) That a licensee, before performing general fumigation, notify in writing the department of the location where the fumigation is to be performed, which notice must be received by the department at least 24 hours before the fumigation and must contain such information as the department requires. The department may specify circumstances under which notification of less than 24 hours is allowed and what notice is required in those circumstances.

(5) That any pesticide used as the primary preventive treatment for subterranean termites in new construction be applied in the amount, concentration, and treatment area in accordance with the label; that a copy of the label of the registered pesticide being applied be carried in a vehicle at the site where the pesticide is being applied; and that the licensee maintain for 3 years the record of each preconstruction treatment, indicating the date of treatment, the location or address of the property treated, the total square footage of the structure treated, the type of pesticide applied, the concentration of each substance in the mixture applied, and the total amount of pesticide applied.

(6) That the department may issue an immediate stop-use or stop-work order for fumigation performed in violation of fumigant label requirements or department rules, or in a manner that presents an immediate serious danger to the health, safety, or welfare of the public, including, but not limited to, failure to use required personal protective equipment, failure to use a required warning agent, failure to post required warning signs, failure to secure a structure's usual entrances as required, or using a fumigant in a manner that will likely result in hazardous exposure to humans, animals, or the environment.

(7) That the department may require safety procedures for the clearance of residential structures before reoccupation after fumigation.

Appendix XVI. Revisions (in Red) Required in Statute 487.051 for FDACS to Initiate a Rule-Making Process.

487.051 Administration; rules; procedure.—

(1) The department may by rule:

(a) Declare as a pest any form of plant or animal life or virus which is injurious to plants, humans, domestic animals, articles, or substances.

(b) Establish procedures for the taking and handling of samples and establish tolerances and deficiencies where not specifically provided for in this part; assess penalties; and prohibit the sale or use of pesticides or devices shown to be detrimental to human beings, the environment, or agriculture or to be otherwise of questionable value.

(c) Determine whether pesticides, and quantities of substances contained in pesticides, are injurious to the environment. The department shall be guided by the United States Environmental Protection Agency regulations in this determination.

(d) Establish requirements governing aircraft used for the aerial application of pesticides, including requirements for recordkeeping, annual aircraft registration, secure storage when not in use, area-of-application information, and reporting any sale, lease, purchase, rental, or transfer of such aircraft to another person.

(e) Establish requirements governing the secure storage of pesticides used by aerial pesticide applicators.

(f) Establish conditions of registration or reregistration for structural fumigants which include requirements that registrants:

1. Train distributors and end users in safety measures and in proper use, safe storage, and management of fumigant materials.
2. Obtain continuing education program approval for stewardship training programs.
3. Conduct quality assurance reviews.
4. Report to the department any probation or stop-sale notice issued to end users. Under such circumstances, the department shall notify all other structural fumigant registrants of the reported probation or stop-sale notice.
5. Assist the department, upon request, with the removal of fumigant containers from distributors and end users for compliance with permanent or extended stop-sale notices.



22 October 2022

Carolyn Siu
Environmental Protection Specialist
Regulatory Support Branch
Office of Program Support
US Environmental Protection Agency - OCSPP
1200 Pennsylvania Ave., NW
Washington, DC 20460-001

[Via email and electronic submission to siu.carolyn@epa.gov](mailto:siu.carolyn@epa.gov)

**Re: Consultation Questionnaire for the “Soil and Non-Soil Fumigant Risk Mitigation”
Renewal ICR (OMB Control No.: 2070-0197; EPA No.: 2451.03, Docket ID No.: EPA-HQ-
OPP-2022-0150)**

Dear Ms. Siu:

The National Pest Management Association (NPMA), the only national trade group representing the structural pest management industry, appreciates the opportunity to comment on the *Consultation Questionnaire for the “Soil and Non-Soil Fumigant Risk Mitigation” Renewal ICR.*

NPMA is a non-profit organization that was established in 1933 to support the pest management industry. The association has over 5,500 member companies from around the world, including nearly 5,000 U.S.-based pest management companies that account for about 90% of the \$9.4 billion U.S. structural pest control market. More than 80% of the industry is made up of small businesses, many of them with five employees or less. Our member companies take their role of protectors of public health, food, and property extremely seriously and we welcome further dialogue on the topic of sulfurly fluoride and structural fumigation.

Professional pest control firms use fumigants to perform non-soil fumigations throughout the United States and its Territories. Fumigants control pests including (but not limited to): drywood termites, Formosan termites, powder post beetles, death watch beetles, old house borers, bed bugs, cockroaches, clothes moths, rodents, and carpet beetles in dwellings, buildings, construction materials, furnishings, shipping containers and vehicles (including automobiles, buses, surface ships, passenger railcars and recreational vehicles). Fumigants provide a method of control for many pests and situations in which no alternative control methods may exist and is an indispensable tool to protect public health, food, and property.

The proposed measures outlined in the EPA's *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures* (Docket ID: EPA-HQ-OPP-2009-0163) would significantly increase the reporting burden on fumigators. If EPA were to implement the proposed risk mitigations in whole or in part, it would significantly change the burdens placed on fumigators. As such, we encourage EPA to review the ICR following the publication of final risk mitigation by the Agency. NPMA submitted comments to the docket which included recommendations for eliminating duplicative and unnecessary reporting associated with the proposed fumigation management plans for structural fumigations that were proposed in the *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures*. Although the Agency has not published final Re-Entry Risk Mitigation, we encourage the Agency to review NPMA's comments on the proposal for information regarding proposed fumigation management plans for residential/structural fumigation.

NPMA does not have a method by which to estimate the number of non-soil fumigations are performed nationwide each year, although fumigations performed on dwellings for the control of drywood termites in Florida and California are well documented by the state lead agencies in those states. On average about 120,000 structural fumigations are performed in California and 60,000 in Florida each year.

Question #2 of the Consultation Questionnaire states, "Some homes, buildings, and commodities may be fumigated every year, by the same pest control company or under contract, such that the time required for all subsequent, similar applications to the same site is reduced significantly". It is uncommon for an individual dwelling to be fumigated for drywood termites by the same company year after year. Currently, fumigation management plans are not required for residential fumigations, however recent proposed risk mitigation from the Agency regarding such plans have been proposed (see above). Reinfestations and subsequent fumigation do occur, but they are the exception, not the norm. Alternatively, certain facilities (non-residential) which are fumigated for stored product pests (i.e., warehouses, food processing plants, commodities) may have scheduled, or contracted services. Fumigation management plans are continuously reviewed and updated for these facilities.

Thank you for the opportunity to provide feedback regarding *Consultation Questionnaire for the "Soil and Non-Soil Fumigant Risk Mitigation" Renewal ICR*. NPMA welcomes the opportunity for continued dialogue. If you have questions, or need additional information, I can be reached via telephone or email at jfredericks@pestworld.org.

Sincerely,



Jim Fredericks, PhD, BCE
VP, Technical & Regulatory Affairs
National Pest Management Association



PEST CONTROL OPERATORS OF CALIFORNIA

August 22, 2022

U.S. Environmental Protection Agency
EPA Docket Center
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Docket ID: EPA-HQ-OPP-2022-0150
Via Regulations.gov

Re: EPA ICR No. 2451.03 and OMB Control No. 2070-0197

On behalf of the Pest Control Operators of California (“PCOC”), I am submitting these comments in response to the Environmental Protection Agency’s (“EPA’s”) request for comment on an Information Collection Request (“ICR”) that EPA is planning to submit to the Office of Management and Budget (“OMB”). The ICR, entitled: “Soil and Non-Soil Fumigant Risk Mitigation,” and identified by EPA ICR No. 2451.03 and OMB Control No. 2070-0197, represents the renewal of an existing ICR that is scheduled to expire on January 31, 2023. Before submitting the ICR to OMB for review and approval under the Paperwork Reduction Act (“PRA”), EPA is soliciting comments on specific aspects of the information collection that are summarized in a Federal Register notice issued on June 24, 2022.

Additionally, to assist EPA in understanding the structural fumigation industry in California, PCOC is submitting the “Consultation Questionnaire for the Non-Soil Fumigant Risk Mitigation” (see Enclosure 1). PCOC represents the structural fumigators who conduct structural fumigations (about 120,000 sites per year) in California. This is more than in any other state and represents about 60% of the structural fumigations conducted in the United States.

The current ICR Supporting Statement does not account for the information collection burdens associated with EPA’s proposed mitigation measures for sulfuryl fluoride products registered for residential fumigation. The ICR Supporting Statement does acknowledge that, “[i]n May 2021, the Agency (EPA) proposed mitigation measures in the ‘Sulfuryl Fluoride Draft Interim Re-entry Mitigation Measures Memorandum’ in response to the OIG recommendations.” PCOC submitted extensive comments regarding this memorandum and the proposed mitigation measures to the EPA docket (EPA-HQ-OPP-2009-0136) by September 23, 2022 deadline (see Enclosures 2 and 3).

In addition, seven PCOC members participated on a Sulfuryl Fluoride Advisory Panel which drafted a 38-page document “Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures” which was submitted by Douglas Products to this docket (see Enclosure 4). These three submissions outlined many parts of the proposed mitigation by EPA which are unnecessary and/or unduly burdensome and are enclosed with this letter in response to this ICR.¹

At this time, EPA has not formally responded to the submitted comments by PCOC including those that affect the ICR and the burdens calculated in the ICR Supporting Statement, such as Fumigation Management Plans, warning signs, and stewardship training. The ICR Supporting Statement acknowledges, “EPA anticipates publishing the Final Interim Re-entry Mitigation Measures Memorandum, describing necessary label changes for sulfuryl fluoride products which must be implemented by the registrants within 60 days after publication, in the Fall of 2022.” Since EPA intends to publish its final mitigation measures for sulfuryl fluoride before the existing ICR is renewed on January 31, 2023, it is appropriate that the EPA proposed mitigation measures for sulfuryl fluoride are reviewed prior to that time and the ICR is amended to reflect the burdens associated with these new mitigation procedures.

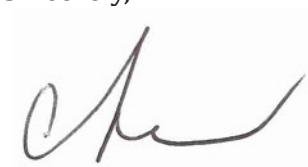
With regard to the current burden estimates, the estimate provided for non-soil fumigants in Tables 12 through 14 for hourly cost for Certified Applicator (Field Representative in California) and Pesticide Handler (Second trained person) are inadequate. In California, the hourly cost for a Field representative (i.e., certified applicator in the California structural fumigation industry) is about \$50.00/hour and for a second trained personal (i.e., pesticide handler) is about \$40.00/hour. These estimates include wages, benefits, workman’s compensation insurance, and costs to maintain employee certifications.

In conclusion, the current ICR Supporting Statement significantly underestimates the burdens placed on fumigators in California who use sulfuryl fluoride products registered for residential fumigation because the EPA proposed mitigation measures in the “Sulfuryl Fluoride Draft Interim Re-entry Mitigation Measures Memorandum” were not considered. PCOC encourages EPA Prior to submitting the final ICR to OMB, EPA should decide which comments from the PCOC, the Sulfuryl Fluoride Advisory Panel, the registrants, and others on its interim mitigation proposal it will implement, and then update the burden analysis in the ICR Supporting Statement.

I encourage EPA to contact me at PCOC if there are questions about information in any of the documents PCOC submitted to this docket, or for assistance with the ICR burden analysis for any proposed mitigation procedures. Thank you for this opportunity to comment.

¹ Enclosures 2, 3, and 4 are also available on Regulations.gov with Comment IDs: EPA-HQ-OPP-2009-0136-0231; -0230; and -0327 (Exhibit A), respectively.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Reardon', is centered below the word 'Sincerely,'.

Chris Reardon
Executive Vice President
Pest Control Operators of California

Enclosure 1: PCOC Response to Consultation Questionnaire for the Non-Soil Fumigant Risk Mitigation

Enclosure 2: PCOC response to EPA Draft Interim Re-Entry Mitigation Measures on Sulfuryl Fluoride

Enclosure 3: PCOC request for a waiver from Fumigation Management Plan (FMP) requirements

Enclosure 4: Sulfuryl fluoride Advisory Panel Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

Consultation Questionnaire for the “Soil and Non-Soil Fumigant Risk Mitigation” Renewal ICR

OMB Control No.: 2070-0197; EPA No.: 2451.03

Docket ID No.: EPA-HQ-OPP-2022-0150

Representative Consulted**Name: Pest Control Operators of California (PCOC)****Questions Related to Non-Soil Fumigants****(1) Publicly Available Data**

- *Is the information (e.g., Fumigant Management Plans (FMPs) or training materials) that the Agency requests available from any public source, or already collected by another office at EPA or by another agency? (Several fumigants are still in the registration review process, so mitigation is subject to change.)*

Answer: Refer to the cover letter and Enclosures 2, 3, and 4 submitted by PCOC to Docket ID No.: EPA-HQ-OPP-2022-0150. A detailed description of the fumigation logs required in California is provided below.

- *If yes, where can you find the information? (Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they do not meet our data needs very well?)*

Answer: Refer to the cover letter and Enclosures 2, 3, and 4 submitted by PCOC to Docket ID No.: EPA-HQ-OPP-2022-0150. A detailed description of the fumigation logs required in California is provided below.

(2) Frequency of Collection

- *Can you record, maintain, and distribute the information less frequently and still produce the same outcome?*

Answer: Refer to the cover letter and Enclosures 2, 3, and 4 submitted by PCOC to Docket ID No.: EPA-HQ-OPP-2022-0150. A detailed description of the fumigation logs required in California is provided below.

- *On average, how many non-soil fumigant applications are performed in any given year?*

Answer: In California, **about 120,000 sites representing about 150,000 structures** (i.e., more than one structure may be fumigated per site, such as a single family home with a detached garage) **are fumigated annually with sulfuryl fluoride**. Based on a survey conducted by Douglas Products in 2018, in California on average about **1,850 structures are fumigated each year by each fumigation company**, including each branch location of a multi-branch company.

- *Some homes, buildings, and commodities may be fumigated every year, by the same pest control company or under contract, such that the time required for all subsequent, similar applications to that same site is reduced significantly. However, the current data available to EPA does not make a*

distinction between initial and subsequent applications. Due to limited information, EPA has assumed that every non-soil fumigant application requires a new FMP (except EtO and sulfuryl fluoride which are still in registration review; therefore, requirements for EtO and sulfuryl fluoride are subject to change), and that the estimated burden hours are the same for all non-soil fumigant applications.

- *If applicators typically perform subsequent applications at the same site, can you provide a rough estimate of how frequently these subsequent applications occur (e.g. about 25%, 50%, etc. of total applications)? Please list the type(s)/site(s) of these non-soil applications.*

Answer: There are two reasons for refumigating a structure for drywood termites. The first is that the fumigation did not achieve a sufficient dosage of sulfuryl fluoride to control the drywood termites. This refumigation rate is low and averages about **2%** per year.

The second reason for refumigating a structure is that it is reinfested by drywood termites after the fumigation. The fumigation provides remedial control, but does not leave a pesticide residue to prevent pest reinfestation. For drywood termites, it takes on average 7-10 years for new colonies, started by alates (winged reproductive king and queen), to grow to a size to produce alates. Drywood termite alates are a very visible sign to building occupants of a drywood termite infestation. This refumigation rate averages about **5%** per year. Unless a fumigation warranty is in place, the property owner/homeowner usually will get bids from several fumigation companies that may not include the fumigation company that previously fumigated the structure. The industry standard in California for fumigation warranties is a three year warranty, which is renewed annually by payment of a renewal fee. Some structures can be fumigated more frequently if there is a real estate transaction. Others are fumigated less frequently if the same owner retains the structure. However, it is unlikely that the same fumigator would refumigate a structure for this second reason (reinfestation) within an interval that would permit any meaningful reduction in the time need to prepare an FMP.

Therefore, for the two reasons stated above, in total about 7% of previously fumigated structures are refumigated each year.

- *How much time does it take to complete the requirements identified in this ICR for the either a one-time application or an initial application? For subsequent applications? Please list the type(s)/site(s) of these non-soil applications.*

Answer: Section 1970 (a) of California Code of Regulations Title 16. Division 19. Article 4 requires registered companies handling dangerous gases used in fumigation to compile and retain a log for each fumigation job. **The log form for each fumigation takes about 30-40 minutes per fumigation site to complete throughout the fumigation process, and requires the following information be recorded:**

- Name, address, and company registration certificate number of the prime contractor.
- Name, address, and company registration certificate number of the subcontractor, if any.
- Address of property.
- Date of fumigation.
- Name and address of owner or his/her agent.
- Date and hour fire department was notified pursuant to Business and Professions Code section 8505.5.

- 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, air ducts, or vacuum systems that could allow for 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 (Volume).
- Target pest(s).
- Kind of fumigant(s) used.
- US EPA registration number(s) of fumigant(s).
- Name of warning agent and amount used.
- Type of sealing method used.
- Conditions of tarp and seal.
- 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.

10

- Name, signature and license number of operator or field representative releasing the fumigant.
- First name and surname of crew when fumigant was released, when aeration commenced, and when 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.
- Name, signature and license number of operator or field representative commencing ventilation.
- Type of device(s) used to test for re-entry.
- 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. (Title 16. Division 19. Article 4. Section 1970 (a))

Because the above information is specific to the conditions, timing, and personnel for each fumigation, there is very little time saved in filling out the fumigation log form again if the fumigation is repeated at the same structure.

EPA is requesting the **following additional information be recorded in a Fumigation management Plan (FMP) which is not currently required in the California fumigation log.**

- Posting signs - how many signs, indicate placement
- Date and time of arrival [of crew to prepare the structure for fumigation]

- List credential numbers of crew members present during introduction of chloropicrin (warning agent) and fumigant
- List phone numbers of crew members present during introduction of chloropicrin and fumigant
- Dosing calculator used
- Relative humidity, number of fans, fan amps, fumigant HLT
- Number of chloropicrin introduction sites
- Ounces of chloropicrin per introduction site
- List credential numbers of crew members present during initiation of aeration
- List phone numbers of crew members present during initiation of aeration
- Crew arrival time [for aeration]
- Time seal broken
- Monitoring: yes or no check box
- If yes: location, equilibrium readings, interim readings, terminal readings, hours elapsed between readings, actual HLT, correction information
- Clearance device: Information on the way the device was calibrated.
- Emergency preparedness/response measure: Provide information in case of an emergency, including the hospital nearest to the site.

Information not required on the California fumigation log, but listed on the EPA proposed FMP, is not critical to conducting the fumigation, provides no additional consumer or worker protection or aids in the diagnosing of the cause of issues may arise during a fumigation that result in an investigation, fine, and/or disciplinary actions. The specific reason(s) why each bullet point of additional information requested by EPA is not required for a fumigation log is described in Table 3 of Enclosure 4: Assessment of Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures. PCOC submitted a waiver from the FMP requirements within EPA's proposed Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures (EPA-HQ-OPP-2009-0136-0230) (see Enclosure 3).

PCOC estimates that it will require **an additional 30 minutes per fumigation log form** to document the additional information requested by EPA that is not currently required in the California fumigation log. For 120,000 fumigations conducted annually in California, that represents **an additional 60,000 hours** for the Field representative (i.e. Certified Applicator) at **an additional labor cost of \$3,000,000 for the industry** (based on \$50.00/hour). For a fumigation company, that represents **an additional 925 hours** for the Field representative (based on 1,850 fumigations/year) at **an additional labor cost of \$46,250. There would be no increase in cost to the California structural fumigation industry if EPA waives the FMP requirements for California fumigators as requested by PCOC.**

(3) Clarity of Instructions

The ICR is intended to account for the paperwork burdens associated with the requirements for certain fumigant product users to develop FMPs, to develop or participate in fumigant-specific trainings when required, and to provide certain information to decrease the likelihood of applicator, handler, and bystander exposure to fumigants.

Based on the available instructions (fumigant labeling requirements, EPA guidances, etc.), is it clear what is required? If not, what suggestions do you have to clarify the instructions?

Answer: As previously described, the information that must be recorded for the California fumigation

log is clearly stated Section 1970 (a) of California Code of Regulations Title 16. Division 19. Article 4 and is well understood by the structural fumigation industry.

Some of the additional information EPA is proposing to record in an FMP (i.e., fumigation log form) is confusing as follows:

“Clearance device: Information on the way the device was calibrated” - For sulfuryl fluoride clearance devices (SF-ExplorIR, CLIRcheck, FumiSpec Lo) which can only be serviced by authorized service providers, the fumigator does not have this information (i.e., it is not in the User Manual).

“List credential numbers of crew members present during each phase of the fumigation” - “Credential numbers” not standard terminology for fumigator licensing. Only the certified applicator (and the special identification cardholder in Florida) has a license number. Other crew members do not have license numbers.

"Prior to fumigating, the certified applicator supervising the fumigation must verify that a site-specific fumigation management plan (FMP) exists. The FMP is intended to ensure a safe and effective fumigation. The certified applicator supervising the fumigation must ensure that the FMP is up-to-date and applicable to the fumigation before it takes place." - This needs to be reworded because most of the documentation required is recorded during the fumigation process, and not before the fumigation. Soil and commodity fumigations are repeated at the same site and may be complex sites, such as food processing facilities. In these cases, development of a site-specific FMP before the fumigation is useful. In contrast, residential buildings and other non-industrial buildings are very similar in features that would affect how the fumigation is conducted. If a fumigation using a residential fumigant is repeated at a given building, it would typically occur years later as discussed in this questionnaire and is likely be conducted by another fumigation company. Therefore, a site-specific FMP developed before the fumigation is not necessary or useful for residential fumigants.

- *Do you understand that you are required to maintain records? How long you are required to maintain these records?*

Answer: Section 1970 (a) of California Code of Regulations Title 16. Division 19. Article 4 requires the fumigation log form be retained for **at least three years**.

- *While there no required forms associated with this process, EPA does provide sample FMP templates for soil fumigants online (<https://www.epa.gov/soil-fumigants>).*
 - *Do you use them as a guide for completing the non-soil fumigant requirements, or have you developed your own format?*

Answer. The EPA sample FMP templates for soil fumigation are not relevant to structural fumigation, and therefore are not useful as guides. As previously discussed, Section 1970 (a) of California Code of Regulations Title 16. Division 19. Article 4 lists specific information to be recorded in a fumigation log form and provides a template (Form 43M-47) for the fumigation log. This template is provided in attached Enclosure 3: PCOC request for a waiver from Fumigation Management Plan (FMP) requirements.

- *If you have developed your own format, why did you choose to do so?*

Answer: Most fumigators use a log form as formatted in the template (Form 43M-47) as

described above.

- *Without an available template specification created for non-soil fumigants, has it been difficult to develop your own format to comply with the non-soil fumigant labels?*

Answer: The labeling for sulfuryl fluoride products registered for fumigation of residential structures do not currently require an FMP. The template (Form 43M-47) for the fumigation log provides information required to be recorded for each fumigation per Section 1970 (a) of California Code of Regulations Title 16. Division 19. Article 4.

- *Do you believe that an EPA-developed template for non-soil fumigants will help to reduce burden?*

Answer: No, not for California. The template (Form 43M-47) for the fumigation log provides information required to be recorded for each fumigation per Section 1970 (a) of California Code of Regulations Title 16. Division 19. Article 4. The template is well understood by the California structural fumigation industry.

(4) Electronic Reporting and Recordkeeping

- *Are you completing the FMPs and maintaining records by paper or electronically?*

Answer: The majority (over 99%) of the fumigation companies in California use a paper log form. A small number of companies use electronic devices, such as tablets or iPads, to record data on the log forms in the field.

- *If you are using paper, is it possible for you to keep records electronically?*

Answer: Yes. California regulations permit electronic or digital copies of the original log form are allowed, provided the copy(s) are readily available at the time requested (e.g. office records check by Structural Pest Control Board or County Agricultural Commissioner staff or for other purposes).

- *If yes, why have you chosen to complete the requirements by paper?*

Answer: Paper is inexpensive, reliable, and easy to use. Paper does not require additional cost to purchase equipment, software, and training for employees. Paper does not malfunction or lose battery power.

- *If no, what obstacles have you experienced that prevent you from completing the requirements electronically?*

Answer: Electronic devices to use in the field and supporting software add significant expense. The standard devices, such as tablets, are not robust to field conditions, including high heat, dirt, and rough handling. Users must be trained to use these devices. The devices can also fail, losing important recorded data. The software currently customized for use by pest control companies to integrate these log forms into business operations is very expensive for a small company to purchase.

- *If you are completing the requirements electronically, in what format (e.g., Word, Excel, online, etc.)?*

Answer: A PDF form with fillable fields on tablet, iPad, or other electronic device is currently used by a few California companies for recording information in the fumigation log forms.

- *Has electronic recordkeeping reduced your paperwork burdens? If so, please explain.*

Answer: As previously discussed, based on how much new information is required in a fumigation log form when a structure is refumigated, electronic recordkeeping does not significantly reduce the paperwork burden.

- *What benefits would electronic reporting and recordkeeping bring you in terms of burden reduction or greater efficiency in compiling the information?*

Answer: The potential benefits of electronic record keeping is less physical storage space is required, and ease of data collection and completion. In addition, if the fumigation log form is integrated into business operations software, it would be easier to conduct quality control reviews, evaluate crew performance, and other business assessments.

(5) Burden and Costs

- *The Agency assumes there are some capital costs for soil fumigant users for buffer zone signs and monitoring equipment, but did not identify similar costs for non-soil fumigants. Are there similar capital costs for non-soil fumigant applications? Please provide estimates for the capital costs that may be associated with non-soil fumigant applications.*

Answer: A significant potential capital cost from one of EPA's proposed interim mitigation measures for sulfuryl fluoride products registered for residential fumigation was the requirement to conduct the California Aeration Plan (CAP) to aerate structures. Since CAP is already required for use in California, it does not represent an additional capital cost burden for fumigators in this state.

For fumigators outside of California, the **additional** equipment (tarps, clamps, snakes, corner pads, CAP ducts and vents, fans, secondary locks, introduction and monitoring hoses, chloropicrin application pans, etc.) required to set-up a fumigation using CAP will average **\$40,000 per truck**. Each truck will have a fumigation crew, typically 3-4 persons, to set-up and take down fumigations. A crew can typically work at six sites per day depending upon travel time and if structures are average-sized single-family residences; setting up tarps and fumigation equipment at three houses and taking down tarps and removing equipment at three houses. A good way to describe the challenges on equipment for CAP is the current labeled fumigation process is a two-day process so you can use all set-up equipment three times per week. With CAP it becomes a three-day process which means you can use all the set-up equipment only two times per week.

The **\$40,000 per truck** does **not** include the following:

- Additional wear-and-tear on tarping materials to remain on each fumigated structure for an additional day.
- Cost to purchase additional truck(s) to carry the extra equipment, such as the CAP ducts, CAP vents, and more fans, if current fumigation vehicles are not configured to carry this extra equipment.

Cost to change business operations and forms, and to train personnel to conduct CAP.

- *How many non-soil fumigant applications are made annually? Please list the fumigant(s) and site(s) covered by your estimate.*

Answer: As previously discussed, in California, about **120,000 sites representing about 150,000 structures** (i.e., more than one structure may be fumigated per site, such as a single family home with a detached garage) **are fumigated annually with sulfuryl fluoride**. Based on a survey conducted by Douglas Products in 2018, in California on average **about 1,850 structures are fumigated each year by each fumigation company**, including each branch location of a multi-branch company. These fumigations are conducted with **sulfuryl fluoride products registered for residential fumigation** (Vikane® gas fumigant [Douglas Products] and Zythor® [Ensystem]).

Sites fumigated with these sulfuryl fluoride products include dwellings (including mobile homes and multi-unit residences), buildings (such as offices, stores, schools, churches, museums, medical and research facilities, restaurants, municipal buildings, theaters, hotels and motels, etc.) construction materials, furnishings (household effects), shipping containers and vehicles including automobiles, buses, surface ships, passenger railcars, and recreational vehicles (aircraft are excluded).

- *How long does it take to complete a non-soil fumigant FMP? Please list the fumigant(s) and site(s) covered by your estimate.*

Answer: As previously described, Section 1970 (a) of California Code of Regulations Title 16, Division 19, Article 4 requires registered companies handling dangerous gases used in fumigation to compile and retain a log for each fumigation job. **The log form for each fumigation takes about 30-40 minutes per fumigation site to complete throughout the fumigation process.**

As previously discussed, PCOC estimates that it will require **an additional 30 minutes per fumigation log form** to document the additional information requested by EPA that is not currently required in the California fumigation log. For 120,000 fumigations conducted annually in California, that represents **an additional 60,000 hours** for the Field representative (i.e. Certified Applicator) at **an additional labor cost of \$3,000,000 for the industry** (based on \$50.00/hour). For each fumigation company (and each location, for multi-location companies), that represents **an additional 925 hours** for the Field representative (based on 1,850 fumigations/year) at **an additional labor cost of \$46,250**. **There would be no increase in cost to the California structural fumigation industry if EPA waives the FMP requirements for California fumigators as requested by PCOC.**

Fumigants used under these regulations are sulfuryl fluoride products registered for residential fumigation (Vikane® gas fumigant [Douglas Products] and Zythor® [Ensystem]). Sites fumigated with these sulfuryl fluoride products are listed above.

Bearing in mind that the burden and cost estimates include only burden hours and labor costs associated with the paperwork involved with this ICR (e.g., the ICR does not include estimated burden hours and costs for conducting studies), are the estimated burden hours and labor rates accurate? If you provide burden and labor cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates. Also, please specify the type and site(s) of fumigation.

Answer: Labor rates were not accurate. The hourly cost for a California Field representative (i.e., certified applicator in the California structural fumigation industry) is about **\$50.00/hour** and for a second trained personal (i.e., pesticide handler) is about **\$40.00/hour**. This estimates include wages,

benefits, workman's compensation insurance, and costs to maintain employee certifications.

The ICR estimated burden costs did not include the EPA proposed in the interim mitigation procedures for sulfuryl fluoride products registered for residential fumigation. The cost burden of the additional information, currently not required by California regulations, that EPA is proposing for fumigators to record on fumigation log forms is repeatedly discussed in this questionnaire.

Are there other costs that should be accounted for that may have been missed?

Answer: PCOC is not aware of any at this time aside from those discussed above and in Enclosures 2, 3, and 4 to the cover letter transmitting this questionnaire response.



PEST CONTROL OPERATORS OF CALIFORNIA

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WWW.PCOC.ORG

September 20, 2021

Office of Pesticide Programs (OPP)
Regulatory Public Docket (7502P)
Environmental Protection Agency
Docket ID # EPA-HQ-OPP-2009-0136
Re: Comments on *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures*
(EPA-HQ-OPP-2009-0136-0105)

Moana Appleyard
Pesticide Re-evaluation Division (7508P)
Office of Pesticide Programs
U.S. Environmental Protection Agency

Submitted electronically via Regulations.gov

On behalf of the Pest Control Operators of California (PCOC), I submit the following comments related to the draft EPA Interim Re-Entry Mitigation Measures on Sulfuryl Fluoride. PCOC is a thousand member state trade association representing the pest control industry in California. We have long had working committees on fumigation with a focus on fume enforcement and these participants participate actively with numerous counties throughout the state of California. In addition, as someone who was Chief Deputy Director at the California Department of Pesticide Regulation during the development and implementation of CAP, it has stood the test of time and has proved to be the gold standard in residential fumigation in this country.

In California, our fumigators perform more residential fumigations annually than the rest of the states combined, approximating 65% nationally. We average about 110,000 fumigations encompassing 150,000 structures and millions of cubic feet completed yearly. Our types of structures include single family homes, multi-unit and apartment buildings, townhome/condo complexes and commercial/warehouses and offices. Our companies perform some of the largest, most complex and challenging fumigation jobs completed anywhere. For drywood termite control our industry utilizes a three-day process and has been aerating structures with California Aeration Plan (CAP) for over eleven plus years.

I will be commenting on several items that are included in the DRAFT EPA proposed labeling changes. They include the removal of two clearance detectors from the current sulfuryl fluoride label, warning sign features and placement recommendations, requirement for a Fumigant Management plan and required information, requirements for registrant stewardship plan and lastly the removal of aeration procedure 1 and 2 from the current labeling and implementation of CAP nationwide.

Remove the SF-ExplorIR and Interscan as approved sulfuryl fluoride clearance devices based on a laboratory evaluation conducted by the EPA Analytical Chemistry Branch (ACB).

In California our fumigators primarily use the Clircheck and SF-ExplorIR clearance devices. I do agree with the assessment of the Douglas Products Sulfuryl Fluoride Advisory Panel.

Advisory Panel Assessment: The Advisory Panel did not review the EPA's clearance device test as part of its charge; however, it understands that Douglas Products, and the device manufacturers have identified a number of issues with the EPA protocol, the testing itself, and EPA's interpretation of the test results, all of which will be addressed in comments to be filed with EPA by Douglas Products. In light of these issues, it is the Advisory Panel's position that the manufacturers of the sulfuryl fluoride clearance devices that EPA proposes to remove from the label should be given time to conduct additional studies to demonstrate that these devices have sufficient sensitivity to measure sulfuryl fluoride to continue to be used as clearance devices.

EPA proposal: *Add more description of warning sign features and placement to improve their durability and visibility during the fumigation process.*

I do agree with the assessment of the Douglas Products Sulfuryl Fluoride Advisory Panel on this issue.

Advisory Panel Assessment: Fumigators in states that regulate fumigation warning signs in any manner should be exempt from federal labeling requirements for warning signs. The preamble to the signage requirements should be revised to make clear that the label's sign requirements apply only in states that do not have their own signage requirements.

In California, warning signs must be placed on all seams on first floor level where two tarps are joined by the fumigator. This may differ with other state requirements.

EPA proposal: *Require a Fumigant Management Plan (FMP) that describes specific information to be documented for each fumigation.*

I do agree with the assessment of the Douglas Products Sulfuryl Fluoride Advisory Panel on this issue. On behalf of PCOC I will be submitting a request for a waiver to the requirement EPA is recommending due to the extensive information and documentation requirements already in

force in California statute and regulations that are maintained by our fumigators as part of their recordkeeping.

Advisory Panel Assessment: Based on the Advisory Panel’s review, it is reasonable to require the following categories of information to be either recorded in advance of, during, or after a fumigation, as appropriate, and modified as information is collected. Any FMP language on the new labels should make clear when each piece of information is required to be documented, and any timing requirements should not be unduly burdensome. Therefore, the information below followed by (B) would be documented before the fumigation; other information would be documented during the fumigation process. The categories of information below should be permitted to be recorded in various locations, including fumigation logs, Vikane Fumiguide® reports, employee records, state notification websites, or other documents and records where it is currently recorded in hardcopy or electronically to avoid needless duplication of effort.

- Fumigation company (B)
- Fumigation site address (B)
- Type of structure (B)
- Target pest(s) (B)
- Dosage factor
- Tarp condition
- Seal condition
- Wind (mph)
- Volume (1000 cubic feet) (B)
- Underseal
- Temperature
- Hours of Exposure
- Name and license number of certified applicator in charge, and name of second trained person(s) and certified applicator(s) assisting with introduction of sulfuryl fluoride and chloropicrin
- Total ounces of chloropicrin introduced
- Cylinder serial number(s) of sulfuryl fluoride applied
- Pounds of sulfuryl fluoride applied
- Date and time of fumigant release
- Date and time aeration initiated
- Name and license number of certified applicator initiating aeration
- Name of second trained person(s) and certified applicator(s) assisting with initiating aeration if two trained persons are required to be present
- Date and time final clearance testing are completed
- Name and license number of certified applicator(s) conducting final clearance testing
- Clearance device model type

The Advisory Panel concluded the remaining information proposed by EPA is not necessary to document for each fumigation site for one or more of the following reasons: it is recorded in other company records unrelated to a specific fumigation, is not available to the fumigator, is not necessary for conducting a safe and effective fumigation, is redundant, does not exist, and/or is not required or specified on the labeling and therefore would be difficult to enforce.

EPA proposal: *Require specific stewardship plans by registrants to be posted on the EPA website. These plans will include initial and annual training, who must attend this training, and training content.*

I do agree with the assessment of the Douglas Products Sulfuryl Fluoride Advisory Panel on this issue.

Advisory Panel Assessment: The proposed definition of persons required to take the stewardship training should be changed to “All employees (including owner or licensed employee responsible for managing/supervising the fumigation operations as required by state regulations) who introduce sulfuryl fluoride, reenter fumigated spaces wearing an SCBA, initiate aeration, and/or conduct final clearance testing.” The proposed requirement, "For states that do not already require practical experience as part of their state certification, a field component should be included in the registrant stewardship training," needs to be deleted because it is not clear that it would legally be possible for the registrants to do this.

EPA proposal: *Replace Aeration Procedures 1 and 2 with the California Aeration Plan (CAP).*

PCOC has been instrumental in the development of the California Aeration Plan (CAP) language, submission to the Department of Pesticide Regulations and adoption in California. One of our standing committees, The Fumigation Enforcement Committee, worked for many months to develop and refine the CAP language that is currently in use. Prior to CAP, fumigators in California utilized the Tarpaulin Removal Aeration Plan (TRAP) for tarp removal to protect workers from exposure. It was approved, in the early nineties, at a level when the target value was 5ppm and was approved under California Code of Regulations Title 3, Division 6, Section 6780.

When the sulfuryl fluoride labeling requirement was changed from 5ppm to 1ppm Tarpaulin Removal Aeration Plan (TRAP) no longer protected workers and Dow AgroSciences and industry were tasked with finding an alternate method to protect workers. TRAP was approved as a safety plan under California code.

Under Section 6780 the fumigation industry was left with three options to protect their workers:

- Wear self-contained breathing apparatus when in an unknown atmosphere and removing tarps
- Employ continuous monitoring for all workers removing tarps
- Develop a safety plan to protect workers removing tarps to ensure fumigant levels remain at or below 1ppm.

The best and only practical option for the fumigation industry was a safety plan.

Implementing CAP was time consuming, expensive and had many challenges. They included the following:

The first challenge was that CAP equipment did not exist. Many prototypes were tried over several months with small improvements over many years. Without any standard written in the first approved CAP document describing the equipment that made CAP work some fumigators made their own inlets and ducts. This proved to be a mistake as CAP, with the deficient equipment, was not effective and could not be enforced by regulatory inspectors. Because of this CAP (2) contained equipment specifications and standards and was resubmitted for

approval under Section 6780. That occurred in 2012 and only minor improvements since then have been made to the equipment.

The most expensive challenge was fumigators had to secure additional tarps, sandbags, clips and related equipment because, under CAP, tarps remained on the structure three days. Fumigators were reduced to two cycles per week per tarp. Prior to CAP it was a two-day process which meant tarps could be used three times per week.

The planning and scheduling of fumigations was changed for all concerned - consumers, prime contractors and sub-contractors. Scheduling natural gas shut-off and restoration were also impacted because of the additional day. Crews and routes changed, because of CAP. On the second day a full crew was not necessary to commence aeration. Conversely, on the third day more labor was needed because the tarps were removed and the structure was certified for reentry.

Training of the industry was time consuming and extensive, taking several months to implement. DPR allowed extra time for implementation. The issue with do-it-yourself equipment caused lots of consternation for industry as it threatened the integrity of the safety plan overall.

CAP as it exists today was years in the making and proved to be a good thing for employees, consumers, fumigation companies and bystanders. After being utilized for over a decade, fumigators have encountered and worked through all the challenges. All the hard work and development has been completed.

One critical issue that EPA has overlooked regarding the removal of Aeration Procedures 1 and 2 from the current federal label and replacing those procedures with CAP, is that within CAP requirements, is language defaulting to Aeration Procedures 1 and 2 in case of a blow-open of tarps from the structure following the exposure period, and during the 12–24-hour active aeration period. The default option is also utilized when a tape-seal fumigation occurs, and in this case, no tarps are used so CAP cannot be performed.

As a safety plan in California, we would not want to see changes to the language as it currently exists. Perhaps Procedures 1 and 2 can be revisited or amended if it needs to be changed moving forward after trial work has been conducted. In the short term it must stay until that happens.

In conclusion, I appreciate the opportunity to make comments on behalf of the Pest Control Operators of California Professional Products and our fumigator groups in California. We look forward to working with EPA to create a safe and manageable plan moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Reardon', is centered below the word 'Sincerely,'. The signature is fluid and cursive.

Chris Reardon
Executive Vice President
Pest Control Operators of California



PEST CONTROL OPERATORS OF CALIFORNIA

September 21, 2021

RE: Proposed Sulfuryl Draft Interim RE-Entry Mitigation Measures Regulations.gov ID No. EPA –HQ-OPP-2009-0136-0105

To Whom it may concern,

The Pest Control Operators of California (PCOC), the largest state association representing a thousand pest control members respectively requests a waiver from the Fumigation Management Plan requirements within USEPA’s proposed Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures (EPA-HQ_OPP-2009-0136-01150).

California fumigators perform more residential fumigations annually than the rest of the country combined. We average about 110,000 fumigations encompassing 150,000 structures and millions of cubic feet completed yearly. Our types of structures include single family homes, multi - unit and apartment buildings, townhouse/condo complexes and commercial /warehouses and offices. Our companies perform some of the most complex and challenging fumigations jobs anywhere. For drywood termite control, our industry utilizes a three-day process and has been aerating structures with the California Aeration Plan (CAP) for well over eleven years.

Because California has the most comprehensive structural fumigation regulatory requirements in the country and has proven it over a long period of time, we respectfully request that you remove this additional burden since it will add nothing to the rules and regulations that already exist.

Sincerely,

Chris Reardon
Executive Vice President
Pest Control Operators of California

Introduction

On May 23, 2021, the United States Environmental Protection Agency (EPA) opened a 60 day public comment, which was later extended an additional 60 days, on its proposed risk mitigation procedures for described in the document, *Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures* (EPA-HQ-OPP-2009-0136-0105). The proposed risk mitigation procedures would require significant and extensive labeling changes for sulfuryl fluoride products registered for residential fumigation, specifically Vikane® gas fumigant (Douglas Products, Liberty, MO) and Zythor® (Ensystem, Fayetteville, NC). These procedures are proposed in response to recommendations in the Office of Inspector General's (OIG) 2016 report, *Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries from Residential Fumigations* (No. 17-P-0053). The 2016 OIG report was prompted by two high profile incidents that occurred in 2015, resulting in serious injury to members of two families in the United States, in Florida and the US Virgin Islands, due to improper residential fumigation practices.

One of the recommendations made by the EPA OIG was to require Fumigation Management plans (FMPs). EPA has proposed labeling changes for residential fumigants to describe FMP requirements. The purpose of this report is to review current California rules and regulations which govern the actions of fumigators using these products, and mandate specific training which meet the requirements of an FMP and establish a justification for waiving the FMP labeling requirements EPA has proposed for California fumigators using either residential fumigant.

The report provides a summary of California-specific regulations for fumigators who apply residential fumigants, which include:

1. Fumigation Employees and their required experience and training (page 3).
2. Additional Training Required (page 4).
3. Requirements for Renewal of Branch 1 Licenses: (page 4).
4. CEU Training Course and CEU Course Instructor Requirements (page 6).
5. Notice of Fumigation (page 7).
6. Enforcement of CA Bus. & Prof. Codes and Cal. Code of Regulations Associated with Structural Pest Control (page 8).
7. Pest Control Operators of California (PCOC) Enforcement Committee (page 8).
8. Fumigation Log (page 9).

The report also provides the process required to make changes to the current Fumigation Log which California fumigators who apply residential fumigants must use. If the currently proposed FMP requirements were mandated in California, a completely unnecessary process (for reasons described in the first section) of implementation would be required. This process would likely cause confusion for California fumigators and regulators as to which FMP regulations have precedence if there is any conflict between state regulations and labeling requirements. The

unintended consequences of any conflicts between California’s well-established and well-functioning regulatory structure and EPA’s proposals could be a reduction in the safety of fumigations in California during, or even after, the implementation process. This outcome and the associated burdens on California fumigators and their customers can be avoided by waiving the proposed FMP requirements for Florida fumigators, and potentially for fumigators in other states that can demonstrate to EPA that they have similarly comprehensive and effective safety requirements.

Regulations in California for Fumigators Who Apply Residential Fumigants¹

In 1935, California passed an act that regulates the practice of structural pest control and required the creation of a structural pest control board to provide for registration and licensing of individuals involved in the control of structural pests and to protect the public in the practice of structural pest control. The Structural Pest Control Board (SPCB) is comprised of four members of the general public and three individuals from the pest control industry. The SPCB was removed from the jurisdiction of the California Department of Pesticide Regulations (CAL DPR) and placed under the jurisdiction of the California Department of Consumer Affairs. The members of the SPCB license and regulate structural pest control companies and ensure licensees meet established qualifications and competencies. Their responsibilities include:

- “Developing rules and regulations for licensing, examination, training, and practice standards, and overseeing the administration of licensing exams.
- Issuing licenses in three categories – applicators, field representative, and operators, and issuing registrations to principal offices and branch offices.
- Reviewing consumer complaints about licensees and working to mediate solutions.
- Investigating alleged violations of the Structural Pest Control Act or related laws and regulations, conducting records inspections, and filing disciplinary actions as required.
- Conducting and evaluating research on structural pest control.”
<https://www.cdpr.ca.gov/docs/dept/pestboard/transfer.htm>

California maintains separate licenses for specific activities associated with structural pest control (specific language cited for Sections of CA Bus. & Prof. Code may be found in Appendix I). These licenses include:

- Branch 1: License required for fumigation (control of household and wood-destroying organisms using fumigants).
- Branch 2: General pest (control of household pests – excludes the use of fumigants).

¹ Residential fumigant is a sulfuryl fluoride product registered for fumigation of residential structures.

- Branch 3: Termite (control of wood-destroying organisms using insecticides, structural repairs, and corrections – excludes the use of fumigants). (CA Bus. & Prof. Code § 8560 (b)).

Registered companies holding Branch 2 and/or Branch 3 licenses only may advertise fumigation but may not conduct the fumigation. Instead, they can subcontract the fumigation to a Registered company holding a Branch 1 license with the consumer’s consent. In doing so, both parties take on the responsibility for performance and are subject to disciplinary actions if required (CA Bus. & Prof. Code § 8514 (e-g)).

Fumigation Employees and their required experience and training. In California, “fumigation is only permitted to be conducted under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in Branch 1 as set forth in Section 8560 (CA Bus. & Prof. Code § 8505.2).”

Field Representative Initial License Requirements: Individuals seeking a Branch 1 license as a Field Representative, must apply (Appendix III) to take an examination and submit an application (Appendix II) for the license within 1 year of successfully passing the exam (score $\geq 70\%$) (CA Bus. & Prof. Code § 8563). The examination must be passed with a minimum score of 70% and tests an applicant’s knowledge in the following areas:

- The safety laws of the state.
- The provisions of the SPCA Business and Professions Code, Division 3 Chapter 14. Structural Pest Control Operators.
- Pesticide used in pest control.
- The theory and practice of pest control in the branch thereof for which the applicant desires to be licensed.
- Other state laws, safety or health measures, or practices (CA Bus. & Prof. Code § 8566).

Applications for Field Representative Branch 1 Licenses (Appendix III) are only be accepted if the applicant can provide documentation (Appendix IV) of a minimum of 6 months (800 hours) of field fumigation training and experience under the immediate supervision of an individual holding a Branch 1 license (CA Bus. & Prof. Code § 8564 (c)).

Operator Initial License Requirements: Individuals applying for an initial Branch 1 Operator’s license must provide documentation (Appendix V) that they have actual field experience for a period of not less than 2 year (3200 hours) with at least one year having been as a Field Representative or be able to demonstrate to the Board that he or she has the equivalent to the required training and/or experience (CA Bus. & Prof. Code § 8562). An examination application (Appendix VII) must be submitted, and the exam passed with a minimum score of 70%. The examination requires the individual to have knowledge in the same topics as required for the Field representative and the following areas:

- Pesticides.

- Pest identification and biology.
- Contract law.
- Rules and regulations.
- Business practices.
- Fumigation safety (CA Bus. & Prof. Code § 8565.5 (a)).

The application (Appendix VIII) must be submitted within 1 year of having successfully passed a required examination (CA Bus. & Prof. Code § 8561).

Non-Licensed Fumigation Crew Members: Registered companies are permitted to hire workers who do not hold a Branch 1 license to work fumigation sites. These employees may only conduct work at fumigation sites once a licensed operator or field representative has completed the negotiation or signing of the contract for the specific fumigation (CA Bus. & Prof. Code § 8506.1 (b)). These workers also must be under the direct supervision of a licensed operator or field representative when completing tasks associated with fumigation. The state of California has established specific training requirements for employees who handle, use or work around pesticides. The training includes topics such as pesticide handling, safety, hazardous materials, etc. (Cal. Code Regs., tit. 3, § 6724) (Appendix VIII). The individual conducting this training must meet specific requirements as stated in Cal. Code Regs., tit. 3, § 6724).

Additional Training Required: Holders of a Branch 1 license who intend to conduct fumigations at a school site must meet the training requirements associated with the Healthy Schools Act of 2000 as stated in CA Bus. & Prof. Code § 8593.2. Completion of this training can count toward CEU requirements for license renewals.

CAL DPR requires every fumigation company to have a written Respiration Protection Program (Cal. Code Regs., tit. 3, § 6739 (Appendix IX)) which provides initial and annual training regarding the use of respirators and in the case of fumigators, Self-contained breathing apparatus (SCBA). This program also includes a Medical Evaluation certifying that an employee is medically fit to use a SCBA and an annual FIT test with record retention requirements.

The Department of Transportation (DOT) requires employees who work with or around hazardous materials to complete the Hazardous Material Employee Training (49 CFR § 172.700 HM-232) (Appendix X). All employees working for a Fumigation Company are considered a Hazardous Material Employee and must receive this training as required.

The labeling of residential fumigants mandates users (i.e., Branch 1 License holders in CA) participate in the registrants' stewardship program. The stewardship program includes initial and annual stewardship training and an annual stewardship policy to which Branch 1 license holders must sign and agree to adhere to its stated conditions, policies, and practices.

Requirements for Renewal of Branch 1 Licenses: (Specific language for cited sections of Cal. Code Reg., tit. 16. may be found in Appendix XI) Individuals, Operators and Field

Representatives, holding Branch 1 licenses are required to renew their licenses every three years. During the time between renewals, the individual must continue to complete approved training courses to accumulate a total of 16 continuing education units (CEU). CEU courses are evaluated and approved by the SPCB (Appendix XII), must include a written exam comprised of a minimum of 10 questions per hour of CEU credit and taught by instructors meeting specific requirements who are then approved by the Board (Appendix XIII) (Cal. Code Reg., tit. 16. § 1950 (a-d & g)). To receive the CEU credit and a Certificate of Completion (Appendix XIV), participants must pass the exam with a minimum score of 70% (Cal. Code Reg., tit. 16. § 1950.5). Licensees must be able to verify the completion of a continuing education requirements whenever requested to do so by the board by providing the Certificate of Completion (Cal. Code Reg., tit. 16. § 1950 (a)). Of the 16 total CEUs required, a minimum of 4 continuing education hours must be in a technical subject directly related to Branch 1 pest control and a minimum of 8 hours must be from Board approved courses on the SPCB, the Rules and Regulations, or structural pest control related agencies' rules and regulations (Cal. Code Reg., tit. 16. § 1950 (c-d)). Providers of an activity granted CEUs must notify the SPCB within 30 days of its presentation and submit a Course Attendance Roster (Appendix XVI) within 5 days after every course instructed (Cal. Code Reg., tit. 16. § 1953 (b-c)).

Table 1 provides a summary of California fumigation employees and the licensing, training and renewal requirements associated with each employee type.

Table 1. Training and Experience required for Branch 1 licensing and renewal and training requirements for non-licensed individuals working at a fumigation site under the direct supervision of a Branch 1 licensee.

Category	Training/Experience Required to Obtain Initial Branch 1 License ¹	Completion of State Certification Exam Required for Initial Branch 1 License	Continuing Education (CEU) Required for Renewal of Branch 1 License ¹
Operator	Yes – 2 years (3200 hours) documented field experience with a registered company in California conducting Branch 1 (Fumigation) work and a minimum of 1 year holding a Branch 1 license as a Field Representative or demonstrate to the SPCB Board that they have equivalent of that training and experience (SPCB Article 4 Section 8560-8562).	Yes - After verifying required experience and training in fumigation had been obtained. (SPCB BPCD3. Article 4. Section 8565 and 8565.5)	Yes – 16 hours of training over three years encompassing 8 hours of Rules and Regulations, 1-4 hours of Technical Branch Requirements, and 4 Hours General Information. Registrant-provided stewardship training for residential fumigants can fulfill part of training requirement (SPCB Article 3.5 Section 1950).
Field Representative	Yes - 2 years (3200 hours) documented field experience with a registered company in California conducting Branch 1 (Fumigation) work or demonstrate to the SPC Board that they have equivalent of that training and experience (SPCB Article 4 Section 8560-8562).	Yes - After verifying required experience and training in fumigation had been obtained. (SPCB BPCD3. Article 4. Section 8566)	Yes – 16 hours of training over three years encompassing 8 hours of Rules and Regulations, 1-4 hours of Technical Branch Requirements, and 4 Hours General Information. Registrant-provided stewardship training for residential fumigants can fulfill part of training requirement. (SPCB Article 3.5 Section 1950).
Registered Company (Branch 1 actions) Employee	These do not hold a Branch 1 license and while permitted to work at a fumigation site, e.g., site preparation and tarping the structure, they are not permitted to conduct any activity that requires a Branch 1 License, e.g., introduction of the fumigant, entering a space undergoing fumigation, clearing a fumigated site, certifying a site for reoccupancy.	NA	NA - The state of California requires the completion of multiple training courses (CCR (Title 3. Food and Agriculture) Division 6. Pesticides and Pest Control Operations, Subchapter 3. Pesticide Worker Safety, Article 2. General Safety Requirements, 6724. Handler Training). CAL DPR requires completion of initial and annual covering use of respirators including SCBAs.

¹All fumigation employees who participate in fumigations using a residential fumigant must complete registrant-provided stewardship training each per product label.

CEU Training Course and CEU Course Instructor Requirements: Training courses must be submitted for review and approval by the SPCB to be assigned CEUs. An application for Continuing Education Activity must be submitted and include if the activity is ongoing or a single event, the type of activity (correspondence, association meeting, in-house training,

professional activity), the type of credit being requested (rules and regulations, technical activity, IPM, or general) and a brief description of the activity. Additionally, the following items must be provided to assist the board with its evaluation and assigning appropriate CEUs:

- Hour-by- hour course outline
- Copies of all materials to be used during training
- Copies of all examinations
- Copies of any promotional materials
- Copy of Certificate of Completion to be provided to licensees completing the course (Form 43M-18).

All material for approval of an activity for CEUs must be submitted no later than 60 days prior to the presentation of the activity (Cal. Code Reg., tit. 16. § 1953 (a)).

Individuals who will deliver the training must also provide information to the SPCB for approval. Information that must be provided on form 43-M-18 includes:

- Education information including if the applicant is a credentialed instructor in the course area, course of study, school/college/university attended, highest degree attained, and year of graduation
- Experience associated with the activity to be taught including completion of training associated with the subject of the activity - minimum of six months within the last 3 years required.
- Activities individual has instructed within the last 5 years associated with the subject of the activity
- SPCB license status
- Identification if course/activity author
- Last 3 years of employment information.

Activity and Instructor approval is provided by written notification and is in effect for 3 years (Cal. Code Reg., tit. 16. § 1953 (e)).

Notice of Fumigation. A notice of fumigation must be provided to the County Agricultural (Ag) Commissioner in the county where the job will be conducted. The notice may be mailed or given by telephone at least 24-hrs prior to start of the fumigation unless the commissioner has determined less time is sufficient (CA Bus. & Prof. Code § 8505.5 (b)). This notice must include the property address, city, zip code, fumigation start date, and the fumigation completion date. The County Ag Departments compile all the notifications for their respective counties into a list that they use to determine which jobs they are going to inspect each day.

Fumigation companies must also provide notification of the date and place of the fumigation and chemicals that will be used to the fire department serving the area where the fumigation will be completed (CA Bus. & Prof. Code § 8505.5 (a)). This notification must be made no later than 2 hours prior to the start of the fumigation.

Enforcement of CA Bus. & Prof. Codes and Cal. Code of Regulations Associated with Structural Pest Control. While not specifically mentioned as part of the proposed FMP, enforcement is critical to ensuring the actions specified in the California Codes, Regulations and product labeling are being followed. This would include the accurate completion of the state required fumigation log.

The Director of Pesticide Regulation is designated by the SPCB as its agent for enforcing the rules and regulations associated with structural pest and carry out any agreed upon investigations (CA Bus. & Prof. Code § 8616). The County Agricultural Commissioners (CAC) re designated by the Director of Pesticide Regulation and is responsible for the conduction of inspections and routine investigations of pesticide use by licensees, registered companies, an unlicensed individuals involved with structural pest control (CA Bus. & Prof. Code § 8616.5 (a)). The SPCB and the Director of Pesticide Regulation jointly determine the list of types of investigations that may result in the suspension of a license or company registration, or impose a fine, and the list of violations that the CAC will reference to the board for disciplinary actions (CA Bus. & Prof. Code § 8616.5 (b)). The SPCB publishes a manual of disciplinary guidelines and model Disciplinary Orders that is available online as part of the larger manual covering all of the codes and regulations for structural pest control.

To help ensure the CAC and its employees associated with structural pest control investigation and enforcement are adequately prepared to complete these tasks, the SPCB and CAL DPR are responsible for jointly developing a training program specifically to address various aspects of structural pest control (CA Bus. & Prof. Code § 8616).

Pest Control Operators of California (PCOC) Enforcement Committee: PCOC, as it exists today, has over 1,100 members covering approximately 80% of California's total volume of pest control business. PCOC works closely with the SPCB and CAL DPR to help develop regulations that protect the credibility of the industry and the safety of customers. To ensure CAC and its employees were able to adequately provide oversight for residential fumigation, PCOC established a voluntary program referred to as the PCOC Enforcement Committee.

Four counties in California are currently part of the program by the California Pest Control trade association, Pest Control Operators of California (PCOC), that requires fumigation companies to pay an eight-dollar fee for each fumigation they conduct using a residential fumigant in one of these four counties. This fee is paid directly to the CAC and is to be used for increased fumigation oversight. This program requires state legislation and typically has a three-year renewal. However, the most recent renewal date was extended to five years to allow for it to coincide with the SPCB renewal. Along with increased oversight and enforcement in these counties, another benefit is increased communication between the CAC's and industry facilitated by quarterly in-person meetings including industry members, regulatory representatives for the member CAC's, SPCB, CAL DPR, as well as the registrants and distributors of residential fumigants, to review and discuss all enforcement actions taken by the

member counties during the preceding quarter. This provides the registrants and distributors opportunities to pinpoint additional training needs as well as possible punitive actions such as probation periods or stop sales designed to change behavior.

Fumigation Log. Section 1970 (a) of California Code of Regulations Title 16. Division 19. Article 4 requires registered companies handling dangerous gases used in fumigation to compile and retain for at least 3 years a log for each fumigation job (Form 43M-47, Appendix XV). If a fumigation is completed by a subcontract fumigator, then the subcontractor is responsible for completing the log and forwarding a copy of the log to the primary contractor within 10 days of having completed the fumigation. The log form for each fumigation must include the following information:

- Name, address, and company registration certificate number of the prime contractor.
- Name, address, and company registration certificate number of the subcontractor, if any.
- Address of property.
- Date of fumigation.
- Name and address of owner or his/her agent.
- Date and hour fire department was notified pursuant to Business and Professions Code section 8505.5.
- 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, air ducts, or vacuum systems that could allow for 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 (Volume).
- Target pest(s).
- Kind of fumigant(s) used.
- US EPA 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 the fumigant.
- First name and surname of crew when fumigant was released, when aeration commenced, and when 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.
- 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. (Title 16. Division 19. Article 4. Section 1970 (a))

The state required fumigation log requires the same critical information as the EPA is proposing for the FMP. Information not found on the California fumigation log, but listed on the EPA proposed FMP, is not critical to conducting the fumigation, provides no additional consumer or worker protection or aids in the diagnosing of the cause of issues may arise during a fumigation that result in an investigation, fine and/or disciplinary actions. Mandating a change to the EPA FMP would require changes to the California Code of Regulations with a review by the SPCB. This is often a lengthy and frustratingly difficult activity and will result in the need for additional education not only of Branch 1 licensees and registered companies, but also of CACs and their associated employees tasked with enforcing California Codes and Regulations associated with structural pest control.

Making Changes to the California Fumigation Log. Changes to California Fumigation Log would require SPCB committee review and approval (Cal. Code Reg., tit. 16. § 1970: Standards and Record Requirements) as required by the CA Bus. & Prof. Code § 8505.13; “A registered company shall maintain a log of each fumigation job performed by it in this state. The log shall be in the form required by the regulations of the board and shall be preserved for a period of at least three years, during which time it shall be available at all times during business hours for inspection by the board and its authorized representatives.” Changes to the requirements contained in Section 1970 are not quickly accomplished. The recent minor changes to the Occupant Fumigation Notice (OFN) used in California and the corresponding regulation, Cal. Code Reg., tit. 16. § 1970.4, took two separate committees over a year to agree on changes. These changes are still going through the SPCB for final adoption. Based on this example,

reaching agreement, and receiving approval to make a change to the current required fumigation log will be difficult and would not be able to be completed within the timeframe suggested by the EPA for implementation of their suggested mitigation measures in response to the EPA OIG Report.

APPENDIX I. Cited Sections of California Business and Professional Code, Division 3. Chapter 14. Structural Pest Control Operators.

Article 1. General Provisions. Section 8505.2.

Fumigation shall be performed only under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in Branch 1 as set forth in Section 8560.

Article 1. General Provisions. Section 8505.5 (a).

- (a) Notice of the date and place of fumigation, and chemicals to be used, shall be given by the fumigator to the fire department serving the area in which fumigation is to be performed not less than two hours prior to the time fumigation begins. The fire department shall not charge any fees for any service related to structural pest control activities except for the costs of an emergency response necessitated by illegal or negligent actions.

Article 1. General Provisions. Section 8505.5 (b).

- (b) Notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed. The notice, which may be mailed or given by telephone, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. A fee shall not be assessed for processing this notice.

Article 1. General Provisions. Section 8506.1 (b).

- (b) A registered company may secure structural pest control work, submit bids, or otherwise contract for pest control work. A registered company may employ licensed field representatives and licensed operators to identify infestations or infections, make inspections, and represent the company in the securing of pest control work. A registered company may hire or employ individuals who are not licensed under this chapter to perform work on contracts covering Branch 1, 2, or 3, or any combination of branches, only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job.

Article 1. General Provisions. Section 8505.13.

A registered company shall maintain a log of each fumigation job performed by it in this state. The log shall be in the form required by the regulations of the board and shall be preserved for a period of at least three years, during which time it shall be available at all times during business hours for inspection by the board and its authorized representatives.

Article 1. General Provisions Section. 8514 (e-g).

- (e) A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer shall be

APPENDIX I (cont.). Cited Sections of the California Business and Professional Code, Division 3. Chapter 14. Structural Pest Control Operators.

informed in advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

- (f) Nothing contained in this section shall permit or authorize a registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified, or registered to perform, pest control work in a branch, or by a method, for which it is not registered, except that a Branch 2 or Branch 3 registered company may advertise fumigation or any all encompassing treatment described in paragraph (8) of subdivision (a) of Section 1991 of Title 16 of the California Code of Regulations if the company complies with the requirements of this section.
- (g) 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. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for an act or omission in the performance of the work that the consumer directly contracts with another registered company, person, or entity to perform, as permitted by this section. All home solicitation contracts shall comply with Chapter 2 (commencing with Section 1688) of Title 5 of Part 2 of Division 3 of the Civil Code.

Article 4. Issuance of Licenses. Section 8560 (b).

- (b) For the purpose of delimiting the type and character of work authorized by the various branch licenses, the practice of pest control is classified into the following branches:
 - (1) Branch 1. Fumigation. The practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases.
 - (2) Branch 2. General pest. The practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases.
 - (3) Branch 3. Termite. The practice relating to the control of wood-destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.

APPENDIX I (cont.). Cited Sections of the California Business and Professional Code, Division 3. Chapter 14. Structural Pest Control Operators.

Article 4. Issuance of Licenses. Section 8562.

- (a) To obtain an original operator's license, an applicant shall submit to the registrar an application containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.
- (b) The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:
 - (1) The name of the applicant.
 - (2) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches of pest control listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of that experience:

Branch 1	2 years
Branch 2	2 years
Branch 3	4 years
- (c) For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field.
- (d) A designation of the branch or branches for which the application is made.
- (e) The fees prescribed by this chapter.
- (f) No operator's license shall be issued to an individual under 18 years of age.
- (g) Effective January 1, 1993, an operator's license shall not be issued to an individual unless that individual has been licensed as a field representative in the branch in which the individual has applied for an operator's license for a period of at least one year, in the case of Branches 1 and 2, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of that training and experience.

Article 4. Issuance of Licenses. Section 8563.

Any individual 18 years of age or over may apply for a license as field representative.

The applicant shall possess the qualifications and be examined as hereinafter prescribed. The applicant shall apply to the board for the issuance of a field representative's license within one year from the date the applicant passes the examination.

APPENDIX I (cont.). Cited Sections of the California Business and Professional Code, Division 3. Chapter 14. Structural Pest Control Operators.

Article 4. Issuance of Licenses. Section 8564 (c).

- (c) The board shall not accept any application for a field representative's license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating, or the equivalent of that training and experience.

Article 4. Issuance of Licenses. Section 8565.

The board shall ascertain by examination that an applicant for a license as operator is qualified in the use and understanding of all of the following:

- (a) The English language, including reading and writing.
- (b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control for which he or she is applying, require that knowledge.
- (c) The labor laws of the state.
- (d) The provisions of this chapter.
- (e) Pesticides used in pest control, if the branch license or licenses for which he or she is applying, require that knowledge.
- (f) The theory and practice of the branch or branches of pest control in which the applicant desires to be licensed.
- (g) Other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control in the various branches, including an applicant's knowledge of the requirements regarding health effects and restrictions on applications, as set forth in Section 8538.

Article 4. Issuance of Licenses Section. 8565.5 (a).

- (a) An applicant for a Branch 1 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:
 - (1) Pesticides.
 - (2) Pest identification and biology.
 - (3) Contract law.
 - (4) Rules and regulations.
 - (5) Business practices.
 - (6) Fumigation safety.

APPENDIX I (cont.). Cited Sections of the California Business and Professional Code, Division 3. Chapter 14. Structural Pest Control Operators.

Article 4. Issuance of Licenses. Section 8566.

The board shall ascertain by examination that an applicant for a license as field representative is qualified in the use and understanding of the following:

- (a) The safety laws of the state, if the branch or branches of pest control for which he or she is applying, require that knowledge.
- (b) The provisions of this chapter.
- (c) Pesticides used in pest control, if the branch or branches of pest control for which he or she is applying, require that knowledge.
- (d) The theory and practice of pest control in the branch or branches thereof for which the applicant desires to be licensed.
- (e) Other state laws, safety or health measures, or practices as are reasonably within the scope of structural pest control in the various branches.

Article 5. Renewal of License. Section 8593.2.

Commencing July 1, 2016, a licensee shall comply with the training requirements of the Healthy Schools Act of 2000 (Article 4 (commencing with Section 17608) of Chapter 5 of Part 10.5 of Division 1 of Title 1 of the Education Code and Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code) if the licensee intends to apply a pesticide at a school site, as defined in subdivision (f) of Section 17609 of the Education Code. Courses completed in furtherance of the training requirements of the Healthy Schools Act of 2000 shall count toward the continuing education requirements of the board and shall qualify as continuing education in integrated pest management.

Article 6. Enforcement. Section 8616.5 (a).

The county agricultural commissioner shall be the lead agency for inspections and routine investigations of pesticide use by the board licensees and registered companies, and of persons engaged in unlicensed structural pest control. When a matter is referred to the board for action, the board shall be the lead agency and may require that the commissioner assist in any investigation.

Article 6. Enforcement. Section 8616.5 (a).

The board and the Director of Pesticide Regulation shall jointly develop the list of the types of investigations to be conducted by the commissioner that may result in the suspension of a license or company registration, or the imposition of a fine, pursuant to Section 8617 and the list of the types of violations that the commissioner shall refer to the board for disciplinary action.

APPENDIX II. Application for SPC Field Representative Exam, Form 43E-6 (Rev. 07/20).



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
STRUCTURAL PEST CONTROL BOARD-LICENSING UNIT
 2005 EVERGREEN STREET, STE. 1500 SACRAMENTO, CA 95815
 P 916-561-8704 | F 916-263-2469 | WWW.PESTBOARD.CA.GOV



**APPLICATION FOR
 STRUCTURAL PEST CONTROL
 FIELD REPRESENTATIVE EXAMINATION
 FEE \$50 PER BRANCH**

(Remit by money order, cashier's, personal or certified check payable to the Structural Pest Control Board.)

FOR BOARD USE ONLY	
ATS No.	_____
Cashiering No.	_____
Results	_____

INSTRUCTIONS:

- Each question must be fully and truthfully answered.
- Attach sheets to this application wherever so directed or when space provided is not sufficient.
- An incomplete application will be returned to the applicant.
- A \$50 Examination Fee per branch is required.
- **ALL FIELDS MUST BE TYPED OR PRINTED.**

PLEASE NOTE:

State law requires an applicant to complete the Live Scan/fingerprint process for the purpose of conducting criminal history record checks prior to licensure.

DATE OF BIRTH _____

SOCIAL SECURITY NO. _____
 (or Individual Tax Identification Number)

1. Check branch(es) in which you are applying for examination:	
<input type="checkbox"/>	Branch 1 - The practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases.
<input type="checkbox"/>	Branch 2 - The practice relating to the control of household pests excluding fumigation with poisonous or lethal gases.
<input type="checkbox"/>	Branch 3 - The practice relating to the control of wood-destroying pests or organisms by the use of insecticides or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.
2. Name of Applicant: _____ (First) _____ (Middle) _____ (Last)	
3. Residence Address: _____	Telephone Number: _____ () _____
City _____ State _____ Zip _____	Email address: _____
4. Mailing Address: <small>(This address is where the Candidate's Handbook will be mailed.)</small> _____	
City _____ State _____ Zip _____	
5. Employed by: <small>(Firm name)</small> _____	
6. Employer's Address: _____	Telephone Number: _____ () _____
City _____ State _____ Zip _____	

43E-6 (Rev. 07/2020)

APPENDIX II (cont.). Application for SPC Field Representative Exam, 43E-6 (Rev. 07/20).

<p>7. Are you 18 years of age or older?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>8. Have you ever applied for the field representative or operator's examination? If YES, when? _____</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>9. Are you presently licensed or have you previously been licensed as an applicator, a field representative or an operator in the State of California? If YES, state license number(s) _____</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>10. Do you have any pending disciplinary action against you in regards to a structural pest control professional or vocational license? If YES, attach a detailed statement.</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>11. Are you now or have you ever been a partner in a company or an officer of a corporation licensed by the Structural Pest Control Board? If YES, list name(s) of companies _____</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>12. Have you, or any company with which you have been affiliated, had a professional or vocational license denied, suspended, or revoked by this or any other state? If YES, attach a detailed statement.</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>13. Have you ever been convicted of any violation of any provision of the Structural Pest Control Act? If YES, attach a detailed statement.</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>14. Are you now or have you ever been licensed to do structural pest control in another State? If YES, you will be required to submit a certified license history from that State's Licensing Agency as well as a copy of that State's Rules and Regulations before the issuance of a license.</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>

APPENDIX II (cont.). Application for SPC Field Representative Exam, Form 43E-6 (Rev. 07/20).

VIOLATION OF THE SECURITY OF THE EXAMINATION, INCLUDING CHEATING ON AN EXAMINATION, IS A MISDEMEANOR. IF YOU ARE FOUND GUILTY, YOU COULD RECEIVE A FINE, A JAIL SENTENCE OR BOTH. IT IS ALSO REASON FOR DISQUALIFICATION FROM THE EXAMINATION AND DENIAL OF A LICENSE.

IF YOU VIOLATE THE SECURITY OF THE EXAMINATION AND ARE FOUND GUILTY, IN ADDITION TO OTHER PENALTIES, YOU WILL BE HELD LIABLE FOR ACTUAL DAMAGES CAUSED TO THE STRUCTURAL PEST CONTROL BOARD FOR UP TO \$10,000 AND THE COSTS OF LITIGATION (BUSINESS AND PROFESSIONS CODE SECTION 123).

SOME VIOLATIONS OF EXAMINATION SECURITY ARE:

- Removing examination materials from examination rooms
- Copying any portion of the examination materials
- Talking to any other candidate during the examination
- Copying answers from another candidate
- Allowing another person to copy your answers
- Having books, notes, etc. during the examination
- Taking the examination for someone else
- Letting someone else take your examination
- Memorizing questions or answers from the examination to share with others
- Getting examination questions or other materials before, during or after the examination
- Selling, buying, receiving any portion of a future, current or previously administered examination

The information on this application is required pursuant to Sections 8560 and following of the Business and Professions Code. All information requested in this application is mandatory, none is voluntary. Failure to provide any of the requested information will result in the application being rejected as incomplete. The information you furnish will be used to determine whether you do or do not meet the requirements for which you are applying. The information you provide may be transferred to other governmental and law enforcement agencies and may be disclosed upon a Public Records Act request made pursuant to Section 6250 of the Government Code. You have a right of access to records maintained by this agency which contain personal information about you subject to the provisions of the Information Practices Act. (§1798 et. seq of the Civil Code) The information is maintained by the Structural Pest Control Board, 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815-3831; telephone 916/561-8704. The Registrar of the Board is the Custodian of Records.

CERTIFIED TRUE STATEMENT

I have read and understand the above and I certify under penalty of perjury under the laws of the State of California to the truth and accuracy of all statements and representations made in this application, including all statements attached hereto. I understand that falsifying information on this application may result in the denial of this application.

Original Signature of Applicant	Attach 2" x 2" photo here
Date	

IMPORTANT NOTE: REFER TO SECTION 8564 OF THE BUSINESS AND PROFESSIONS CODE TO ENSURE YOU MEET THE ELIGIBILITY REQUIREMENTS FOR LICENSURE.

This application must be completed in accordance with the instructions provided on the first page of this application. Be sure you are prepared for the examination before completing this application. Lack of preparation is not considered a valid reason for postponement, as provided in section 1941 of the Rules and Regulations. Such request will be denied and the examination fee forfeited.

Disclosure of your social security number (SSN) or Individual Tax identification Number (ITIN) is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405(c)(2)(C)) authorize collection of your SSN or ITIN. Your SSN or ITIN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Family Code Section 17520, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN or ITIN, your application for examination will not be processed AND you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.

If you have any questions regarding the application for examination, contact the Examination/Licensing Unit.

APPENDIX III. SPC Application for Field Representative License, Form 43L-14 (Rev. 7/20).



BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GOVERNMENT OF CALIFORNIA
 DEPARTMENT OF CONSUMER AFFAIRS • STRUCTURAL PEST CONTROL BOARD
 2005 Evergreen St., Suite 1500, Sacramento, CA 95815
 P (916) 561-8700 | F (916) 263-2469 | www.pestboard.ca.gov



**APPLICATION FOR
 FIELD REPRESENTATIVE'S LICENSE**
 Business & Professions Code Section 8564

LICENSE FEE: \$ 30

(Remit by money order, cashier's check or personal check payable to the Structural Pest Control Board)

If you are already licensed as a field representative, it is only necessary to submit this form and your permanent wall license for upgrading. There is no fee for upgrading.

- Each question must be fully and truthfully answered.
- Attach sheets to this application wherever so directed or when space provided is not sufficient.
- An incomplete application will be returned to the applicant.
- **ALL FIELDS MUST BE TYPED OR PRINTED.**

FOR BOARD USE ONLY	
ATS No.	_____
Cashiering No.	_____
Checked By	_____
Effective Date	_____
License No.	_____
Branch	_____
Class Code	_____

1. Check the branch(es) you are applying for: <input type="checkbox"/> Branch 1 – Fumigation <input type="checkbox"/> Branch 2 – General Pest <input type="checkbox"/> Branch 3 – Termite	
2. Check the type of Field Representative's License to be Issued: <input type="checkbox"/> Inactive License <input type="checkbox"/> Employee of a Company	
3. Date of Birth: _____	4. Driver's License or California Identification No.: _____
5. Social Security Number or Individual Tax Identification Number: _____ Disclosure of your Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN) is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 U.S.C.A. 405(c)(2)(C)) authorize collection of your SSN or ITIN. Your SSN or ITIN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Family Code Section 17520, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN or ITIN, your application for initial license will not be processed AND you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.	
6. Name of Applicant: First (Middle) Last	
Residence Address: Building Number Street Name (Unit Number)	Telephone Number: ()
(City) (State) (Zip)	Email Address (optional):
Mailing Address: Building Number Street Name (Unit Number)	
(City) (State) (Zip)	
7. Employer:	
Employer's Address: Building Number Street Name (Unit Number)	Telephone Number: ()
(City) (State) (Zip)	

43L-14 (Rev. 7/20)

APPENDIX III. (cont.). SPC Application for Field Representative License, Form 43L-14 (Rev. 7/20).

8. Previous Employer:		
Previous Employer's Address:		Telephone Number: Area Code ()
9. Are you presently licensed or have you previously been licensed as a structural pest control applicator, field representative, or operator in the State of California? <input type="checkbox"/> YES <input type="checkbox"/> NO		
If YES, state license number(s): _____		
10. Give the name and address of individuals and businesses with whom you have been associated in the pest control business as partners or business associates in the last five years: _____ _____		
11. Are you now or have you ever been licensed to do structural pest control in another State? <input type="checkbox"/> YES <input type="checkbox"/> NO		
If YES, provide the name of the State and your license number _____ Type of License _____ Name license issued under _____		
12. Are you at the present time employed or engaged in the structural pest control business? <input type="checkbox"/> YES <input type="checkbox"/> NO		
If YES, by whom and in what capacity? _____		
13. Have you ever had a professional or vocational license refused, denied, suspended or revoked by this or any other State agency? <input type="checkbox"/> YES <input type="checkbox"/> NO		
If YES, attach a signed detailed statement.		
14. Do you have any pending disciplinary action against you in regards to any professional or vocational license? <input type="checkbox"/> YES <input type="checkbox"/> NO		
If YES, attach a signed detailed statement.		
15. Have you ever been connected with any person, partnership or corporation, whose professional or vocational license was refused, denied, suspended or revoked by this or any other State agency? <input type="checkbox"/> YES <input type="checkbox"/> NO		
If YES, attach a signed detailed statement.		
16. Have you ever been found guilty of any violation or any provision of the Structural Pest Control Act? <input type="checkbox"/> YES <input type="checkbox"/> NO		
If YES, attach a signed detailed statement.		
17. EXPERIENCE -- Submit all actual compensated structural pest control experience gained while in the employ of a company registered in the State of California. Experience must be certified on a CERTIFICATE OF EXPERIENCE FORM. Attach Certificate of Experience Form(s) to this application.		
Time Period		
From	To	Employer and Address
		Description of duties performed

**APPENDIX III. (cont.). SPC Application for Field Representative Examination, Form 43L-14
(Rev. 7/20).**

<p>18. EQUIVALENT EXPERIENCE/TRAINING - Submit all experience/training which you believe is equivalent to experience/training gained while in the employ of a pest control company. Such activities can include, but are not limited to, military service, structural pest control related occupations or any other related activity.</p>		
Time Period	Employer and Address	Description of duties performed
From To		
<p>19. OUT OF STATE EXPERIENCE -- Out of state experience will be evaluated as to the equivalency of experience under a structural pest control company registered to do business in the State of California.</p> <p>State in which you gained experience: _____</p> <p>Do you hold a license issued by that State? If YES, you must have a certified license history sent to the California Structural Pest Control Board from that state's licensing agency as well as a copy of that State's Rules and Regulations.</p> <p>List in chronological order all structural pest control experience gained out of state. Experience must be certified by employer.</p> <p>Attach certification of experience to this application.</p>		
Time Period	Employer and Address	Description of duties performed
From To		
<p>20. Are you currently in the United States Military? <input type="checkbox"/> YES <input type="checkbox"/> NO</p>		
<p>21. Have you ever served in the United States Military? <input type="checkbox"/> YES <input type="checkbox"/> NO</p>		
<p>22. Are you, or someone that you are either married, in a legal union or domestic partnership with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders? <input type="checkbox"/> YES <input type="checkbox"/> NO</p>		
<p>CERTIFIED TRUE STATEMENT</p>		
<p>I certify under penalty of perjury under the laws of the State of California to the truth and accuracy of all statements and representations made in this application, including all statements attached hereto. I understand that falsifying information on this application may result in the denial of this application. I certify that I am at least eighteen years of age and have read and understand the "Notice of Collection of Personal Information."</p>		
Original Signature		Date

**APPENDIX IV. SPC Certificate of Training/Experience for Field Representative License
Application, Form 43-E 35 (Rev 5/15).**



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
STRUCTURAL PEST CONTROL BOARD-LICENSING UNIT
 2005 EVERGREEN STREET, STE. 1500 SACRAMENTO, CA 95815
 P 916-561-8704 | F 916-263-2469 | WWW.PESTBOARD.CA.GOV



**CERTIFICATE OF TRAINING/EXPERIENCE FOR FIELD REPRESENTATIVE
APPLICATION**

THE FOLLOWING MUST BE FILLED OUT AND SIGNED BY THE QUALIFYING MANAGER ON
BEHALF OF THE APPLICANT. **ALL FIELDS MUST BE TYPED OR PRINTED.**

NAME OF APPLICANT:		
COMPANY NAME:	COMPANY ADDRESS:	
<input type="checkbox"/> TO BE COMPLETED FOR BRANCH 1 APPLICANTS: In accordance with Section 8564 of the Structural Pest Control Act and Section 1937 of the California Code of Regulations, a Branch 1 applicant must submit proof satisfactory to the Board that he/she has had six (6) months of training and experience in the practice of fumigating with lethal gases which includes a minimum of 100 hours of training and experience in preparation, fumigation, ventilation and certification.		
EMPLOYMENT FROM _____ TO _____ <small style="display: block; text-align: center;">mo day year mo day year</small>		
<input type="checkbox"/> TO BE COMPLETED FOR BRANCH 2 APPLICANTS: In accordance with Section 8564 of the Structural Pest Control Act and Section 1937 of the California Code of Regulations, a Branch 2 applicant must submit proof satisfactory to the Board that he/she has had a minimum of 40 hours training and experience in pesticide application, Branch 2 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, 20 hours of which are actual field work. The minimum hour requirement must include training and experience in Integrated Pest Management, and the impact of structural pest control services on water quality.		
<input type="checkbox"/> TO BE COMPLETED FOR BRANCH 3 APPLICANTS: In accordance with Section 8564 of the Structural Pest Control Act and Section 1937 of the California Code of Regulations, a Branch 3 applicant must submit proof satisfactory to the Board that he/she has had a minimum of 100 hours of training and experience, in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, structural inspection procedures and report writing, 80 hours of which are actual field work. The minimum hour requirement must include training and experience in Integrated Pest Management, and the impact of structural pest control services on water quality.		
I certify under the penalty of perjury under the laws of the State of California that the above named applicant has had training and experience under the immediate supervision of an operator or field representative licensed in the Branch(es) for which the applicant is applying.		
ORIGINAL SIGNATURE OF QUALIFYING MANAGER (Operator)		DATE SIGNED
PRINTED NAME OF QUALIFYING MANAGER	LICENSE NO. OPR _____	TELEPHONE NUMBER () _____

43E-35 Rev 5/2015

APPENDIX V. SPC Certificate of Training/Experience for Operators License Application, Form 43-E 3 (Rev 5/15).



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
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 P 916-561-8704 | F 916-263-2469 | WWW.PESTBOARD.CA.GOV



CERTIFICATE OF TRAINING/EXPERIENCE FOR OPERATORS APPLICATION

In accordance with Section 8562 of the Structural Pest Control Act, an applicant for the Operator's Examination must submit proof satisfactory to the Board that he/she has had experience for a period of not less than the time specified opposite the branches listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of such experience.

- Branch 1 2 Years (1 year as a Field Representative Branch 1 required)**
- Branch 2 2 Years (1 year as a Field Representative Branch 2 required)**
- Branch 3 4 Years (2 years as a Field Representative Branch 3 required)**

Experience must be actual experience in the field and must be certified on this form. This form must be filled out and signed by the qualifying manager on behalf of the applicant. **ALL FIELDS MUST BE TYPED OR PRINTED.**

Full Name of Applicant: (First) _____ (Middle) _____ (Last) _____	
Full Time Employment: From _____ to _____ mo day year mo day year	Part Time Employment: From _____ to _____ mo day year mo day year
Total hours worked _____.	Total hours worked _____.
Duties: (job titles are unacceptable; duties must be detailed and specific) _____	
A separate Certificate of Experience must be filled out for each branch.	
I certify under penalty of perjury under the laws of the State of California that the above named applicant has been employed for the period indicated above and in the course of such employment has obtained experience as stated above.	
Company Name: _____	
Address of Principal Office: _____	Telephone Number: Area Code () _____
Original Signature of Qualifying Manager: _____	Date Signed: _____
Name of Qualifying Manager: _____	Operator License No.: _____

43E-3 Rev 05/2015

APPENDIX VI. Application for SPC Operator Exam, Form 43E-1 (Rev. 07/20).



BUSINESS CONSUMER SERVICES AND LICENSING AGENCY - CALIFORNIA MEMORIAL FOUNDATION
STRUCTURAL PEST CONTROL BOARD-LICENSING UNIT
 2005 EVERGREEN STREET, STE. 1500 SACRAMENTO, CA 95815
 P 916-561-8704 | F 916-263-2469 | WWW.PESTBOARD.CA.GOV



**APPLICATION FOR
 STRUCTURAL PEST CONTROL
 OPERATOR EXAMINATION
 FEE \$65 PER BRANCH**

(Remit by money order, cashier's, personal or certified check payable to the Structural Pest Control Board.)

FOR BOARD USE ONLY

ATS No. _____

Cashiering No. _____

Results _____

INSTRUCTIONS:

- Each question must be fully and truthfully answered.
- Attach sheets to this application wherever so directed or when space provided is not sufficient.
- An incomplete application will be returned to the applicant.
- A \$65 Examination Fee per branch is required.
- **ALL FIELDS MUST BE TYPED OR PRINTED.**

PLEASE NOTE:

State law requires an applicant to complete the Live Scan/fingerprint process for the purpose of conducting criminal history record checks prior to licensure.

DATE OF BIRTH _____

SOCIAL SECURITY NO. _____

(or Individual Tax Identification Number)

1. Check branch(es) in which you are applying for examination:

- Branch 1** - The practice relating to the control of household and wood-destroying pests or organisms by fumigation with poisonous or lethal gases.
- Branch 2** - The practice relating to the control of household pests excluding fumigation with poisonous or lethal gases.
- Branch 3** - The practice relating to the control of wood-destroying pests or organisms by the use of insecticides or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.

2. Name of Applicant: _____ (First) _____ (Middle) _____ (Last)

3. Residence Address: _____ **Telephone Number:** _____
 ()

City _____ State _____ Zip _____ **Email address:** _____

4. Mailing Address: (This address is where the Candidate's Handbook will be mailed.) _____

City _____ State _____ Zip _____

5. Employed by: (Firm name) _____

6. Employer's Address: _____ **Telephone Number:** _____
 ()

City _____ State _____ Zip _____

APPENDIX VI (cont.). Application for SPC Operator Exam, Form 43E-1 (Rev. 07/20).

7.	Are you 18 years of age or older?	<input type="checkbox"/> YES <input type="checkbox"/> NO						
8.	Have you ever applied for the field representative or operator's examination? If YES, when? _____	<input type="checkbox"/> YES <input type="checkbox"/> NO						
9.	Are you presently licensed or have you previously been licensed as an applicator, a field representative or an operator in the State of California? If YES, state license number(s) _____	<input type="checkbox"/> YES <input type="checkbox"/> NO						
10.	Do you have any pending disciplinary action against you in regards to a structural pest control professional or vocational license? If YES, attach a detailed statement.	<input type="checkbox"/> YES <input type="checkbox"/> NO						
11.	Are you now or have you ever been a partner in a company or an officer of a corporation licensed by the Structural Pest Control Board? If YES, list name(s) of companies _____	<input type="checkbox"/> YES <input type="checkbox"/> NO						
12.	Have you, or any company with which you have been affiliated, had a professional or vocational license denied, suspended, or revoked by this or any other state? If YES, attach a detailed statement.	<input type="checkbox"/> YES <input type="checkbox"/> NO						
13.	Have you ever been convicted of any violation of any provision of the Structural Pest Control Act? If YES, attach a detailed statement.	<input type="checkbox"/> YES <input type="checkbox"/> NO						
14.	Are you now or have you ever been licensed to do structural pest control in another State? If YES, you will be required to submit a certified license history from that State's Licensing Agency as well as a copy of that State's Rules and Regulations before the issuance of a license.	<input type="checkbox"/> YES <input type="checkbox"/> NO						
<p>EDUCATION REQUIREMENT - In accordance with Section 8565.5 of the Structural Pest Control Act, an applicant must submit proof satisfactory to the Board that he/she has satisfactorily passed board approved courses in the areas outlined under the branch the applicant is applying for licensure.</p> <p>Attached is a list of board approved courses that have been approved to fulfill the requirements of Section 8565.5 of the Structural Pest Control Act. Anyone who has completed courses that he/she feels meets the criteria outlined below but have not been approved by the Board, may submit information on the courses within his/her application. Their courses will be reviewed on an individual basis.</p>								
<p>Branch 1 - An applicant for the Operator's Branch 1 license must attach proof satisfactory to the Board that he/she has satisfactorily passed board approved courses in the following areas:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Pesticides</td> <td style="width: 33%;">Rules and Regulations</td> <td style="width: 33%;">Contract Law</td> </tr> <tr> <td>Pest Identification and Biology</td> <td>Business Practices</td> <td>Fumigation Safety</td> </tr> </table>			Pesticides	Rules and Regulations	Contract Law	Pest Identification and Biology	Business Practices	Fumigation Safety
Pesticides	Rules and Regulations	Contract Law						
Pest Identification and Biology	Business Practices	Fumigation Safety						
<p>Branch 2 - An applicant for the Operator's Branch 2 license must attach proof satisfactory to the Board that he/she has satisfactorily passed board approved courses in the following areas:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Pesticides</td> <td style="width: 33%;">Contract Law</td> <td style="width: 33%;">Business Practices</td> </tr> <tr> <td>Pest Identification and Biology</td> <td>Rules and Regulations</td> <td></td> </tr> </table>			Pesticides	Contract Law	Business Practices	Pest Identification and Biology	Rules and Regulations	
Pesticides	Contract Law	Business Practices						
Pest Identification and Biology	Rules and Regulations							
<p>Branch 3 - An applicant for the Operator's Branch 3 license must attach proof satisfactory to the Board that he/she has satisfactorily passed board approved courses in the following areas:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Pesticides</td> <td style="width: 33%;">Rules and Regulations</td> <td style="width: 33%;">Contract Law</td> </tr> <tr> <td>Pest Identification and Biology</td> <td>Business Practices</td> <td>Construction Repair and Preservation Techniques</td> </tr> </table>			Pesticides	Rules and Regulations	Contract Law	Pest Identification and Biology	Business Practices	Construction Repair and Preservation Techniques
Pesticides	Rules and Regulations	Contract Law						
Pest Identification and Biology	Business Practices	Construction Repair and Preservation Techniques						

APPENDIX VI (cont.). Application for SPC Operator Exam, Form 43E-1 (Rev. 07/20).

VIOLATION OF THE SECURITY OF THE EXAMINATION, INCLUDING CHEATING ON AN EXAMINATION, IS A MISDEMEANOR. IF YOU ARE FOUND GUILTY, YOU COULD RECEIVE A FINE, A JAIL SENTENCE OR BOTH. IT IS ALSO REASON FOR DISQUALIFICATION FROM THE EXAMINATION AND DENIAL OF A LICENSE.

IF YOU VIOLATE THE SECURITY OF THE EXAMINATION AND ARE FOUND GUILTY, IN ADDITION TO OTHER PENALTIES, YOU WILL BE HELD LIABLE FOR ACTUAL DAMAGES CAUSED TO THE STRUCTURAL PEST CONTROL BOARD FOR UP TO \$10,000 AND THE COSTS OF LITIGATION (BUSINESS AND PROFESSIONS CODE SECTION 123).

SOME VIOLATIONS OF EXAMINATION SECURITY ARE:

- Removing examination materials from examination rooms
- Copying any portion of the examination materials
- Talking to any other candidate during the examination
- Copying answers from another candidate
- Allowing another person to copy your answers
- Having books, notes, etc. during the examination
- Taking the examination for someone else
- Letting someone else take your examination
- Memorizing questions or answers from the examination to share with others
- Getting examination questions or other materials before, during or after the examination
- Selling, buying, receiving any portion of a future, current or previously administered examination

The information on this application is required pursuant to Sections 8560 and following of the Business and Professions Code. All information requested in this application is mandatory, none is voluntary. Failure to provide any of the requested information will result in the application being rejected as incomplete. The information you furnish will be used to determine whether you do or do not meet the requirements for which you are applying. The information you provide may be transferred to other governmental and law enforcement agencies and may be disclosed upon a Public Records Act request made pursuant to Section 6250 of the Government Code. You have a right of access to records maintained by this agency which contain personal information about you subject to the provisions of the Information Practices Act. (§1798 et. seq of the Civil Code) The information is maintained by the Structural Pest Control Board, 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815-3831; telephone 916/561-8704. The Registrar of the Board is the Custodian of Records.

CERTIFIED TRUE STATEMENT

I have read and understand the above and I certify under penalty of perjury under the laws of the State of California to the truth and accuracy of all statements and representations made in this application, including all statements attached hereto. I understand that falsifying information on this application may result in the denial of this application.

<hr/> <p style="text-align: center;">Original Signature of Applicant</p> <hr/> <p style="text-align: center;">Date</p>	<p>Attach 2" x 2" photo here</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>
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IMPORTANT NOTE: REFER TO SECTION 8562 OF THE BUSINESS AND PROFESSIONS CODE TO ENSURE YOU MEET THE ELIGIBILITY REQUIREMENTS FOR LICENSURE.

This application must be completed in accordance with the instructions provided on the first page of this application. Be sure you are prepared for the examination before completing this application. Lack of preparation is not considered a valid reason for postponement, as provided in section 1941 of the Rules and Regulations. Such request will be denied and the examination fee forfeited.

Disclosure of your social security number (SSN) or Individual Tax identification Number (ITIN) is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405(c)(2)(C)) authorize collection of your SSN or ITIN. Your SSN or ITIN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Family Code Section 17520, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN or ITIN, your application for examination will not be processed AND you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.

If you have any questions regarding the application for examination, contact the Examination/Licensing Unit.

APPENDIX VII. SPC Application for Operator License, Form 43L-1 (Rev. 7/20).

43L-1

STRUCTURAL PEST CONTROL BOARD

Title 16



BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
 DEPARTMENT OF CONSUMER AFFAIRS • STRUCTURAL PEST CONTROL BOARD
 2005 Evergreen St., Suite 1500, Sacramento, CA 95815
 P (916) 581-8700 | F (916) 283-2489 | www.pestboard.ca.gov



**APPLICATION FOR
 OPERATOR'S LICENSE**

LICENSE FEE: \$120

(Remit by money order, cashier's check or personal check payable to the Structural Pest Control Board)

If you are already licensed as an operator, it is only necessary to submit this form and your permanent wall license for upgrading. There is no fee for upgrading.

- Each question must be fully and truthfully answered.
- Attach sheets to this application wherever so directed or when space provided is not sufficient.
- An incomplete application will be returned to the applicant.
- ALL FIELDS MUST BE TYPED OR PRINTED.

FOR BOARD USE ONLY

ATS No. _____
 Cashiering No. _____
 Checked By _____
 Effective Date _____
 License No. _____
 Branch _____
 Class Code _____

Business & Professions Code Section 8562

1. Check the branch(es) you are applying for: <input type="checkbox"/> Branch 1 – Fumigation <input type="checkbox"/> Branch 2 – General Pest <input type="checkbox"/> Branch 3 – Termites		
2. Check the type of Operator's License to be issued: <input type="checkbox"/> Inactive License <input type="checkbox"/> Employee of a Company <input type="checkbox"/> Qualifying Manager		
3. Date of Birth: _____	4. Driver's License or California Identification No.: _____	
5. Social Security Number or Individual Tax Identification Number: _____ Disclosure of your Social Security Number (SSN) or Individual Tax Identification Number (ITIN) is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 U.S.C.A. 405(e)(2)(C)) authorize collection of your SSN or ITIN. Your SSN or ITIN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Family Code Section 17520, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN or ITIN, your application for initial license will not be processed AND you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.		
6. Name of Applicant: (FIR) _____ (MID) _____ (LAST) _____		
Residence Address: (Building Number) _____ (Street Name) _____ (Unit Number) _____	Telephone Number: () _____	
(City) _____ (State) _____ (Zip) _____	Email Address (optional): _____	
Mailing Address: (Building Number) _____ (Street Name) _____ (Unit Number) _____		
(City) _____ (State) _____ (Zip) _____		
7. Employer:		
Employer's Address: (Building Number) _____ (Street Name) _____ (Unit Number) _____	Telephone Number: () _____	
(City) _____ (State) _____ (Zip) _____		

43L-1 (Rev. 7/20)

APPENDIX VII (cont.). SPC Application for Operator License, Form 43L-1 (Rev. 7/20).

8. Are you presently licensed or have you previously been licensed as a structural pest control applicator, field representative, or operator in the State of California? YES NO
 If YES, state license number(s): _____

9. Give the name and address of individuals and businesses with whom you have been associated in the pest control business as partners or business associates in the last five years:

10. Are you now or have you ever been licensed to do structural pest control in another State? YES NO
 If YES, provide the name of the State and your license number _____
 Type of License _____
 Name license issued under _____

11. Are you at the present time employed or engaged in the structural pest control business? YES NO
 If YES, by whom and in what capacity? _____

12. Have you ever had a professional or vocational license refused, denied, suspended or revoked by this or any other State agency? YES NO
 If YES, attach a signed detailed statement.

13. Do you have any pending disciplinary actions against you in regards to any professional or vocational licenses? YES NO
 If YES, attach a signed detailed statement.

14. Have you ever been associated with any person, partnership or corporation, whose professional or vocational license was refused, denied, suspended or revoked by this or any other State agency? YES NO
 If YES, attach a signed detailed statement.

15. Are you currently in the United States Military? YES NO

16. Have you ever served in the United States Military? YES NO

17. Are you, or someone that you are either married, in a legal union or domestic partnership with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders? YES NO

18. Have you ever been found guilty of any violation or any provision of the Structural Pest Control Act? YES NO
 If YES, attach a signed detailed statement.

19. **EXPERIENCE** -- Submit all actual compensated structural pest control experience gained while in the employ of a company registered in the State of California. Experience must be certified on a CERTIFICATE OF EXPERIENCE FORM. Attach Certificate of Experience Form(s) to this application.

Time Period		Employer and Address	Description of duties performed
From	To		

APPENDIX VII (cont.). SPC Application for Operator License, Form 43L-1 (Rev. 7/20).

20. EQUIVALENT EXPERIENCE/TRAINING - Submit all experience/training which you believe is equivalent to experience/training gained while in the employ of a pest control company. Such activities can include but are not limited to military service, structural pest control related occupations or any other related activity.

Time Period		Employer and Address	Description of duties performed
From	To		

21. OUT OF STATE EXPERIENCE - Out of state experience will be evaluated as to the equivalency of experience under a structural pest control company registered to do business in the State of California.

State in which you gained experience: _____

Do you hold a license issued by that State? If YES, you must have a certified license history sent to the California Structural Pest Control Board from that state's licensing agency as well as a copy of that State's Rules and Regulations.
List in chronological order all structural pest control experience gained out of state. Experience must be certified by employer.
Attach certification of experience to this application.

Time Period		Employer and Address	Description of duties performed
From	To		

The information on this application is required pursuant to Section 8560 and following of the Business and Professions Code. All information requested in this application is mandatory, none is voluntary. Failure to provide any of the requested information will result in the application being rejected as incomplete. The information you furnish will be used to determine whether you do or do not meet the requirements for which you are applying. The information you provide may be transferred to other governmental and law enforcement agencies and may be disclosed upon a Public Records Act request made pursuant to Section 6250 of the Government Code. You have a right of access to records maintained by this agency which contain personal information about you subject to the provisions of the Information Practices Act. (§1796 et. seq of the Civil Code) The information is maintained by the Structural Pest Control Board, 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815-3831; telephone 916/561-8704. The Registrar of the Board is the Custodian of Records.

CERTIFIED TRUE STATEMENT

I certify under penalty of perjury under the laws of the State of California to the truth and accuracy of all statements and representations made in this application, including all statements attached hereto. I understand that falsifying information on this application may result in the denial of this application. I certify that I am at least eighteen years of age and have read and understand the "Notice of Collection of Personal Information."

Original Signature	Date
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APPENDIX VIII. California Code of Regulations, Title 3, Section 6724: Handler Training.

The employer shall assure that employees who handle pesticides have been trained pursuant to the requirements of this section and that all other provisions of this section have been complied with for employees who handle pesticides.

- (a) The employer shall have a written training program. The training program shall describe the materials (e.g., study guides, pamphlets, pesticide product labeling, Pesticide Safety Information Series leaflets, Safety Data Sheets, slides, video) and information that will be provided and used to train his or her employees and identify the person or firm that will provide the training. The training program shall address each of the subjects specified in subsection (b) that is applicable to the specific pesticide handling situation. The employer shall maintain a copy of the training program while in use and for two years after use, at a central location at the workplace.
- (b) The training shall cover, for each pesticide or chemically similar group of pesticides, to be used:
 - (1) Format and meaning of information, such as precautionary statements about human health hazards, contained in pesticide product labeling;
 - (2) Applicator's responsibility to protect persons, animals, and property while applying pesticides; and not to apply pesticides in a manner that results in contact with persons not involved in the application process;
 - (3) Need for, limitations, appropriate use, removal, and sanitation, of, any required personal protective equipment;
 - (4) Safety requirements and procedures, including engineering controls (such as closed mixing systems and enclosed cabs) for handling, transporting, storing, disposing of pesticides, and spill clean-up;
 - (5) Where and in what forms pesticides may be encountered, including treated surfaces, residues on clothing, personal protective equipment, application equipment, and drift;
 - (6) Hazards of pesticides, including acute, chronic, and delayed effects, and sensitization effects, as identified in pesticide product labeling, Safety Data Sheets, or Pesticide Safety Information Series leaflets;
 - (7) Routes by which pesticides can enter the body;
 - (8) Signs and symptoms of overexposure;
 - (9) Routine decontamination procedures when handling pesticides, including that employees should:
 - (A) Wash hands before eating, drinking, using the toilet, chewing gum, or using tobacco;
 - (B) Thoroughly wash or shower with soap and water;
 - (C) Change into clean clothes as soon as possible; and

APPENDIX VIII (cont.). California Code of Regulations, Title 3, Section 6724: Handler Training.

- (D) Wash work clothes separately from other laundry before wearing them again.
- (10) How Safety Data Sheets provide hazard, emergency medical treatment, and other information about the pesticides with which employees may come in contact;
- (11) The hazard communication program requirements of section 6723;
- (12) The purposes and requirements for medical supervision if organophosphate or carbamate pesticides with the signal word "DANGER" or "WARNING" on the labeling are mixed, loaded, or applied for the commercial or research production of an agricultural plant commodity;
- (13) First aid and emergency decontamination procedures and emergency eye flushing techniques; and if pesticides are spilled or sprayed on the body to wash immediately with decontamination supplies and as soon as possible, wash or shower with soap and water and change into clean clothes;
- (14) How and when to obtain emergency medical care;
- (15) Prevention, recognition, and first aid for heat-related illness in accordance with Title 8 of the California Code of Regulations, section 3395;
- (16) Requirements of this chapter and chapter 4 relating to pesticide safety, Safety Data Sheets, and Pesticide Safety Information Series leaflets;
- (17) The requirement that handlers of pesticides used in the commercial or research production of an agricultural commodity must be at least 18 years of age;
- (18) Environmental concerns such as drift, runoff, and wildlife hazards;
- (19) Field posting requirements and restricted entry intervals when pesticides are applied for the commercial or research production of an agricultural commodity;
- (20) That employees should not take pesticides or pesticide containers home from work;
- (21) Potential hazards to children and pregnant women from pesticide exposures, including that:
 - (A) Children and nonworking family members should keep away from treated areas;
 - (B) After performing handling activities or after working in a treated area, employees should remove boots or shoes before entering the home and remove work clothes; and
 - (C) Employees should wash or shower before physical contact with children or family members.
- (22) How to report suspected pesticide use violations; and
- (23) The employee's rights, including the right:
 - (A) To personally receive information about pesticides to which he or she may be exposed;

APPENDIX VIII (cont.). California Code of Regulations, Title 3, Section 6724: Handler Training.

- (B) For his or her physician or an employee representative designated in writing to receive information about pesticides to which he or she may be exposed;
 - (C) To be protected against retaliatory action due to the exercise of any of his or her rights; and
 - (D) To report suspected use violations to the Department or county agricultural commissioner.
- (c) The training shall be in a manner the employee can understand, be conducted pursuant to the written training program, and include response to questions. Training for employees handling pesticides used for the commercial or research production of an agricultural commodity must be at a location reasonably free from distraction and trainers must be present throughout the entire presentation.
- (d) Training shall be completed before the employee is allowed to handle pesticides, continually updated to cover any new pesticides that will be handled, and repeated at least annually thereafter. Initial training may be waived if the employee submits a record showing that training meeting the requirements of this section and covering the pesticides and use situations applicable to the new employment situation was received within the last year. A certified applicator is considered trained for the purposes of this section.
- (e) The date and extent of initial and annually required training given to the employee and the job to be assigned shall be recorded. This record shall be verified by the employee's signature and retained by the employer for two years at a central location at the workplace accessible to employees. For an employee handling pesticides used for the commercial or research production of an agricultural commodity, the record must also include employee's printed name; the title(s) and source(s) of the training materials used; employer's name; and trainer's name and qualifications as specified in (f).
- (f) The person conducting the training for employees who will be handling pesticides for the commercial or research production of an agricultural plant commodity shall be qualified as one of the following:
- (1) A California certified commercial applicator;
 - (2) A California certified private applicator;
 - (3) A person holding a valid County Biologist License in Pesticide Regulation or Investigation and Environmental Monitoring issued by the Department of Food and Agriculture;
 - (4) A University of California Extension Advisor;
 - (5) A person who has completed an "instructor training" program presented by one of the following:

APPENDIX VIII (cont.). California Code of Regulations, Title 3, Section 6724: Handler Training.

- (A) the University of California, Integrated Pest Management Program; or

- (B) other instructor training program approved by the Director;
- (6) A California licensed Agricultural Pest Control Adviser;
- (7) A California Registered Professional Forester; or
- (8) Other trainer qualification approved by the Director.

NOTE: Authority cited: Section 12981, Food and Agricultural Code. Reference: Sections 12980 and 12981, Food and Agricultural Code.

APPENDIX IX. California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

(a) General Requirements.

(1) The employer shall assure that:

(A) Employees use approved respiratory equipment in compliance with this regulation when handling pesticides where respirators are required by label, restricted material permit condition, or regulation.

(2) In any workplace where respirators are required by label, restricted material permit condition, regulation, or employer, the employer shall establish a written respiratory protection program with work site-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions, as applicable:

(A) Procedures for selecting respirators for use in the workplace;

(B) Medical evaluations of employees required to use respirators;

(C) Fit testing procedures for tight-fitting respirators;

(D) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;

(E) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators;

(F) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators;

(G) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations, including Immediately Dangerous to Life or Health (IDLH) atmospheres, if appropriate;

(H) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and

(I) Procedures for evaluating the effectiveness of the program pursuant to subsections (n)(1) and (2).

1. The respirator program administrator shall administer the respiratory protection program in compliance with this section.

2. The employer shall provide respirators, training, and medical evaluations at no cost to the employee.

(b) Voluntary Respirator Provision.

(1) An employer may provide respirators at the request of employees or permit employees to use their own respirators for use on a voluntary basis, if the employer determines that such respirator use will not in itself create a hazard.

(2) If the employer determines that any voluntary respirator use is permissible, the employer shall provide the respirator users with the information contained in subsection (r) and display this information alongside the display of either the Hazard Communication Information for Employees Handling Pesticides in Agricultural Settings (Pesticide Safety Information Series

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

leaflet A-8), or Hazard Communication Information for Employees Handling Pesticides in Noncrop Settings (Pesticide Safety Information Series leaflet N-8), at a central location in the workplace.

(3) Under the employer-supplied voluntary respirator provision, the employer shall establish and implement the provisions of a written respiratory protection program necessary to ensure that any employee using a respirator voluntarily is medically able to use that respirator, and that the respirator is cleaned, stored, and maintained so that its use does not present a health hazard to the user. Employers are not required to include a written respiratory protection program for those employees whose only use of respirators involves the voluntary use of filtering facepieces.

(A) The employer shall provide respirators, training, and medical evaluations at no cost to the employee.

(c) Selection of Respirators. The employer shall select and provide an appropriate respirator certified by the National Institute for Occupational Safety and Health (NIOSH) based on the respiratory hazard(s) and relevant workplace and user factors to which the worker is exposed; and the appropriate pesticide label, restricted materials permit condition, regulation, or employer requirements, whichever is most protective.

(1) The employer shall select respirators from a sufficient number of respirator models and sizes so that the respirator is acceptable to, and correctly fits, the user.

(2) Fumigant-confining structures shall be considered IDLH atmosphere unless proven not to be by appropriate measuring devices as to that chemical. The employer shall provide the following respirators for employee use in IDLH atmospheres:

(A) A full facepiece pressure demand self-contained breathing apparatus (SCBA) certified by NIOSH for a minimum service life of thirty minutes, or

(B) A combination full facepiece pressure demand supplied-air respirator (SAR) with auxiliary self-contained air supply.

(C) Respirators provided only for escape from IDLH atmospheres shall be NIOSH-certified for escape from the atmosphere in which they will be used.

(d) Medical Evaluation. The employer shall ensure a medical evaluation is conducted to determine the employee's ability to use a respirator before the employee is fit tested or required to use the respirator in the workplace. The employer may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator.

(1) Medical Evaluation Procedures.

(A) The employer shall identify a physician or other licensed health care professional (PLHCP) to perform medical evaluations using the medical questionnaire in subsection (q) or an equivalent form or an initial medical examination that obtains the same information as the medical questionnaire.

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

(B) The medical evaluation shall obtain the information requested by the questionnaire in subsection (q), sections 1 and 2.

(2) Follow-up Medical Examination.

(A) The employer shall ensure that a follow-up medical examination is provided when a PLHCP determines that there is a need for a follow-up medical examination.

(B) The follow-up medical examination shall include any medical tests, consultations, or diagnostic procedures that the PLHCP deems necessary to make a final determination.

(3) Administration of the Medical Questionnaire and Examinations.

(A) The medical questionnaire and examinations shall be administered confidentially during the employee's normal working hours or at a time and place convenient to the employee. The medical questionnaire shall be administered in a manner that ensures that the employee understands its content.

(B) The employer shall provide the employee with an opportunity to discuss the questionnaire and examination results with the PLHCP.

(4) Supplemental Information for the PLHCP.

(A) The employer shall provide the following information to the PLHCP before the PLHCP makes a recommendation concerning an employee's ability to use a respirator:

1. The type and weight of the respirator to be used by the employee;
2. The duration and frequency of respirator use (including use for rescue and escape);
3. The expected physical work effort;
4. Additional protective clothing and equipment to be worn; and
5. Temperature and humidity extremes that may be encountered.

(B) The employer shall not be required to provide any supplemental information provided previously to the PLHCP regarding an employee for a subsequent medical evaluation if the information and the PLHCP remain the same. When the employer replaces a PLHCP, the employer shall ensure that the new PLHCP obtains the information specified in (4)(A)1-5 by having the documents transferred from the former PLHCP to the new PLHCP. Employers are not required to have employees medically reevaluated solely because a new PLHCP has been selected.

(C) The employer shall provide the PLHCP with a copy of the written respiratory protection program and a copy of this section.

(5) Medical Determination.

(A) The employer shall obtain a written medical recommendation from the PLHCP regarding the employee's ability to use the respirator. The written medical recommendation shall be provided on the form in subsection (s) or provide substantially the same information as follows:

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

1. Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator;
2. The need, if any, for follow-up medical evaluations; and
3. A statement that the PLHCP has provided the employee with a copy of the PLHCP's written medical recommendation.

(B) If a negative pressure respirator is to be used and the PLHCP finds a medical condition that may place the employee's health at increased risk, the employer shall either provide a powered air purifying respirator (PAPR) provided the PLHCP's medical evaluation finds that the employee can use such a respirator or make changes in the workplace such that respiratory protection is not required. If a subsequent medical evaluation finds that the employee is medically able to use a negative pressure respirator, then the employer shall no longer be required to provide a PAPR.

(6) Additional Medical Evaluations. The employer shall provide additional medical evaluations that comply with the requirements of this section if:

- (A) An employee reports medical signs or symptoms that are related to their ability to use a respirator;
- (B) A PLHCP, supervisor, or the respirator program administrator informs the employer that an employee needs to be reevaluated;
- (C) Information from the respiratory protection program administrator, including observations made during fit testing and program evaluation, indicates a need for employee reevaluation; or
- (D) A change occurs in workplace conditions including, but not limited to, physical work effort, protective clothing, or temperature, that may result in a substantial increase in the physiological burden placed on an employee.

(e) Fit Testing. The employer shall assure that employees using a tight-fitting facepiece respirator pass an appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT).

- (1) The employer shall ensure that an employee using a tight-fitting facepiece respirator is fit tested before initial use of the respirator, whenever a different respirator facepiece (size, style, model or make) is used, and at least annually thereafter.
- (2) The employer shall conduct an additional fit test whenever the employee reports, or the employer, PLHCP, supervisor, or respirator program administrator makes visual observations of changes in the employee's physical condition that could affect respirator fit. Such conditions include, but are not limited to, facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight.
- (3) If after passing a QLFT or QNFT, the employee subsequently notifies the employer, PLHCP, supervisor, or respirator program administrator that the fit of the respirator is unacceptable,

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

the employee shall be given a reasonable opportunity to select a different respirator facepiece and to be retested.

(4) The fit test shall be administered using either the Cal/OSHA-accepted QLFT or QNFT protocols (Title 8, California Code of Regulations, section 5144, Appendix A), or as recommended by the manufacturer of the respirator, if such recommendations are in accordance with Title 8 CCR section 5144, Appendix A, Part II. QLFT is acceptable for all negative-pressure tight-fitting half or full facepiece respirators used in the application of pesticides.

(5) If the fit factor, as determined through a Cal/OSHA-accepted QNFT protocol (Title 8, California Code of Regulations, section 5144, Appendix A), is equal to or greater than 100 for tight-fitting half facepieces, or equal to or greater than 500 for tight-fitting full facepieces, the QNFT has been passed with that respirator.

(6) Fit testing of tight-fitting atmosphere-supplying respirators and tight-fitting powered air-purifying respirators shall be accomplished by performing quantitative or qualitative fit testing in the negative pressure mode, regardless of the mode of operation (negative or positive pressure) that is used for respiratory protection.

(A) Qualitative fit testing of these respirators shall be accomplished by temporarily converting the respirator user's actual facepiece into a negative pressure respirator with appropriate filters, or by using an identical negative pressure air-purifying respirator facepiece with the same sealing surfaces as a surrogate for the atmosphere-supplying or powered air-purifying respirator facepiece.

(B) Quantitative fit testing of these respirators shall be accomplished by modifying the facepiece to allow sampling inside the facepiece in the breathing zone of the user, midway between the nose and mouth. This requirement shall be accomplished by installing a permanent sampling probe onto a surrogate facepiece, or by using a sampling adapter designed to temporarily provide a means of sampling air from inside the facepiece.

(C) Any modifications to the respirator facepiece for fit testing shall be completely removed, and the facepiece restored to NIOSH-approved configuration, before that facepiece can be used in the workplace.

(f) Facepiece Seal Protection. A respirator that requires a tight face-to-facepiece seal shall not have any interference with the establishment of this seal. The employer shall ensure that:

(1) Employees shall not wear a respirator with a tight-fitting facepiece if:

(A) Facial hair comes between the sealing surface of the facepiece and the face or interferes with valve function; or

(B) Any physical or mental condition interferes with the face-to-facepiece seal or valve function.

(2) Corrective glasses or goggles or other personal protective equipment worn by an employee do not interfere with the face-to-facepiece seal.

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

(3) Employees perform a user seal check each time they put on the respirator using the Cal/OSHA procedures (Title 8, California Code of Regulations, section 5144, Appendix B-1) or procedures recommended by the respirator manufacturer that the employer demonstrates are as effective as those in the Cal/OSHA procedures when using tight-fitting respirators.

(4) Appropriate surveillance shall be maintained of work area conditions and degree of employee exposure or stress. When there is a change in work area conditions or degree of employee exposure or stress that may affect respirator effectiveness, the employer shall reevaluate the continued effectiveness of the respirator.

(5) Employees shall leave the contaminated area:

(A) To wash their faces and respirator facepieces as necessary to prevent eye or skin irritation associated with respirator use;

(B) If they detect vapor or gas breakthrough, changes in breathing resistance, or leakage of the facepiece; or

(C) To replace or adjust the respirator or the filter, cartridge, or canister elements.

(6) If the employee detects vapor or gas breakthrough, changes in breathing resistance, or leakage of the facepiece, the employer shall replace or repair the respirator before allowing the employee to return to the work area.

(g) Procedures for Immediately Dangerous to Life or Health (IDLH) Atmospheres. Fumigant-confining structures shall be considered IDLH atmosphere unless proven not to be by appropriate measuring devices. For all IDLH atmospheres, the employer shall assure that:

(1) One employee, or when needed pursuant to (2), more than one employee is located outside the IDLH atmosphere;

(2) Visual, voice, or signal line communication is maintained between the employee(s) in the IDLH atmosphere and the employee(s) located outside the IDLH atmosphere;

(3) The employee(s) located outside the IDLH atmosphere is trained and equipped to provide effective emergency rescue;

(4) The employee(s) located outside the IDLH atmosphere notifies the employer or designee, and/or calls 9-1-1 before entering the IDLH atmosphere to provide emergency rescue. Once notified, the employer or designee authorized to do so by the employer, shall provide necessary assistance appropriate to the situation; and

(5) Employee(s) located outside the IDLH atmospheres is equipped with:

(A) Pressure demand or other positive pressure self-contained breathing apparatus (SCBA), or a pressure demand or other positive pressure supplied-air respirator with auxiliary SCBA; and if necessary,

(B) Appropriate retrieval equipment for removing the employee(s) who enter(s) these hazardous atmospheres where retrieval equipment would contribute to the rescue of the employee(s) and would not increase the overall risk resulting from entry.

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

(h) Cleaning and Disinfecting. The employer shall provide each respirator user with a respirator that is clean, sanitary, and in good working order. The employer shall ensure that respirators are cleaned and disinfected using the procedures recommended by the respirator manufacturer. If the manufacturer requires a cleaning agent that does not contain a disinfectant, the respirator components shall be disinfected with a registered disinfectant approved for such use. The employer shall assure that:

- (1) Respirators issued for the exclusive use of an employee shall be cleaned and disinfected as often as necessary to be maintained in a sanitary condition.
- (2) Respirators maintained for emergency use shall be cleaned and disinfected after each use.
- (3) Respirators that are collected and reissued for use of any employee shall be cleaned and disinfected before reissued.
- (4) Respirators are stored to protect them from damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals. Respirators shall be packed or stored to prevent deformation of the facepiece and exhalation valve.

(i) Storage of Emergency Respirators. Emergency respirators shall be:

- (1) Stored immediately accessible to the work area.
- (2) Stored in compartments or in covers that are clearly marked as containing emergency respirators.
- (3) Stored in accordance with any applicable manufacturer instructions.
- (4) Stored in such a location as to be safely accessible for use if conditions develop requiring utilization of emergency respiratory protection.

(j) Inspection and Repair.

(1) The employer shall ensure that all respirators are inspected before each use and during cleaning, and that:

(A) Routine-use respirator inspections include the following:

1. A check of respirator function, tightness of connections, and the condition of the various parts including, but not limited to, the facepiece, head straps, valves, connecting tube, and cartridges, canisters or filters;
2. A check of elastomeric parts for pliability and signs of deterioration; and
3. SCBA air cylinders are checked to ensure that at least one routine use SCBA air cylinder is charged to 80 percent of the manufacturer's recommended pressure level at the beginning of the workday.

(B) Emergency-use or second respirators are checked to ensure that the air cylinders are maintained at 100 percent of manufacturer's recommended capacity just prior to each use of a pesticide requiring their presence.

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

(C) Emergency-use respirators are also inspected at least monthly according to the routine-use inspection criteria, manufacturer's recommendations, and include performance of the following:

1. A check for proper function;
2. A certification that documents the date the inspection was performed, the name (or signature) of the person who made the inspection, the findings, required remedial action, and a serial number or other means of identifying the inspected respirator; and that this information is included on a tag or label that is attached to the storage compartment for the respirator or is kept with the respirator. This information shall be maintained until replaced following a subsequent certification; and
3. A check for properly functioning SCBA regulator and warning devices.

(D) Escape-only respirators must be inspected according to the routine-use inspection criteria, and before being brought into the workplace for use.

(2) The employer shall ensure that respirators that fail an inspection or are otherwise found to be defective shall be removed from service, and discarded, repaired, or adjusted in accordance with the following procedures:

- (A) Repairs or adjustments to respirators shall be made only by persons appropriately trained to perform such operations and shall use only the respirator manufacturer's NIOSH-approved parts designed for the respirator;
- (B) Repairs shall be made according to the manufacturer's recommendations and specifications for the type and extent of repairs to be performed; and
- (C) Reducing and admission valves, regulators, and alarms shall be adjusted or repaired only by the manufacturer or a technician trained by the manufacturer.

(k) Breathing Air Quality and Use. The employer shall ensure:

- (1) Compressed breathing air suppliers meet at least the requirements for Grade D breathing air described by the Compressed Gas Association (CGA) Commodity Specification for Air, G-7.1-1997 and certify such with a Certificate of Analysis (original or copy) from the supplier.
- (2) Cylinders shall be tested and maintained as prescribed in the Shipping Container Specification Regulations of the Department of Transportation (49 Code of Federal Regulation part 173 and part 178).
- (3) Compressors used to supply breathing air to respirators are constructed and situated so as to conform to Title 8, California Code of Regulations, section 5144.

(l) Identification of Filters, Cartridges, and Canisters. The employer shall ensure that all filters, cartridges and canisters used in the workplace are labeled and color-coded with the NIOSH approval label. The label shall remain legible and not be removed.

(m) Training and Information. In addition to the training requirements specified in section 6724, the employer shall ensure that:

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

- (1) Each employee can demonstrate knowledge of at least the following:
 - (A) Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator;
 - (B) What the limitations and capabilities of the respirator are;
 - (C) How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;
 - (D) How to inspect, put on and remove, use, and check the seals of the respirator;
 - (E) What the procedures are for maintenance and storage of the respirator;
 - (F) How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; and
 - (G) The general requirements of this section.
 - (2) Training shall be conducted in a manner that is understandable to the employee.
 - (3) Training is provided prior to requiring the employee to use a respirator in the workplace.
 - (4) A new employee who has received training within the last 12 months that addresses the elements specified in subsection (m)(1)(A) through (G) is not required to repeat such training provided that, as required by subsection (m)(1), the employee can demonstrate knowledge of those element(s). Previous training not repeated initially by the employer must be provided no later than 12 months from the date of the previous training.
 - (5) Retraining shall be administered annually, and when the following situations occur:
 - (A) Changes in the workplace or the type of respirator render previous training obsolete;
 - (B) Inadequacies in the employee's knowledge or use of the respirator indicate that the employee has not retained the requisite understanding or skill; or
 - (C) Any other situation arises in which retraining appears necessary to ensure safe respirator use.
 - (6) The basic advisory information on respirators specified in (r) is provided in any written or oral format to employees who wear respirators when such use is not required by label, restricted materials permit condition, regulation, or by the employer.
- (n) Program Evaluation.
- (1) The employer shall conduct evaluations of the workplace as necessary to ensure that the provisions of the current written program are being effectively implemented and that it continues to be effective as required by this section.
 - (2) The employer shall annually consult employees required to use respirators to assess the employees' views on program effectiveness and to identify any problems. Any problems that are identified during this assessment shall be corrected. Factors to be assessed include, but are not limited to:
 - (A) Respirator fit (including the ability to use the respirator without interfering with effective workplace performance);

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

- (B) Appropriate respirator selection for the pesticides to which the employee is exposed;
- (C) Proper respirator use under the workplace conditions the employee encounters; and
- (D) Proper respirator maintenance.

(3) A written record of these evaluations and consultations shall be documented and at least contain:

- (A) Name of workers consulted.
- (B) Date of evaluation/consultation.
- (C) Description of any finding from the evaluation or consultation requiring modification of written respiratory protection program or a declaration of no findings.

(4) Any findings from either the employer evaluation or the employee consultation that necessitate the modification to the written respiratory protection program shall be implemented within 30 days from the date of the evaluation/consultation.

(o) End-of-Service Life. When air-purifying respirators are required for protection against pesticides, the employer shall ensure that air-purifying elements (or entire respirator, if disposable type) shall be replaced according to the following hierarchically arranged criteria:

- (1) At the first indication of odor, taste, or irritation while in use, the respirator wearer leaves the contaminated area, adjusts the mask for fit and on returning still encounters odor, taste, or irritation. This criterion item supersedes any of the criteria listed in (2)-(6).
- (2) When any End-of-Service-Life-Indicator (ESLI) indicates that the respirator has reached its end of service;
- (3) All disposable filtering facepiece respirators shall be discarded at the end of the workday;
- (4) According to pesticide-specific label directions/recommendations;
- (5) According to pesticide-specific directions from the respirator manufacturer;
- (6) Absent any pesticide-specific directions/recommendations, at the end of the day's work period;

(p) Recordkeeping. The employer shall retain written information regarding medical recommendations, fit testing, and the respirator program.

(1) Records required by this section shall be maintained while the employee is required to use respiratory protection and for three years after the end of employment conditions requiring respiratory protection and shall be available for inspection by the employee, the Director, or commissioner.

(2) Fit testing.

(A) The employer shall establish a record of the qualitative and quantitative fit tests administered to an employee including:

- 1. The name or identification of the employee tested;
- 2. Type of fit test performed;
- 3. Specific make, model, style, and size of respirator tested;

APPENDIX IX (cont.). California Code of Regulations. Title 3, Section 6739: Respiratory Protection.

4. Date of test; and

5. The pass/fail results for qualitative fit testing or the fit factor and strip chart recording or other recording of the test results for QNFTs.

(3) A written copy of the current respirator program shall be retained by the employer. Previous versions of the written respirator protection program shall be retained for three years.

(4) Written information required to be retained under this subsection shall be made available upon request to employees falling under the respiratory protection program and to the commissioner or persons designated by the Director for review and copying.

(q) Medical Evaluation Questionnaire. The completion of this form, or a form that obtains the same information as the medical questionnaire, by each respirator wearing employee; and the review of the completed form by a physician or licensed health care provider, is mandatory for all employees whose work activities require the wearing of respiratory protection.

The medical evaluation questionnaire shall be administered in a manner that ensures that the employee understands the document and its content. The person administering the questionnaire shall offer to read or explain any part of the questionnaire to the employee in a language and manner the employee understands. After giving the employee the questionnaire, the person administering the questionnaire shall ask the following question of the employee: "Can you read and complete this questionnaire?" If the answer is affirmative, the employee shall be allowed to confidentially complete the questionnaire. If the answer is negative, the employer must provide either a copy of the questionnaire in a language understood by the employee or a confidential reader, in the primarily understood language of the employee. **(Please Note:** The complete form is found in this regulation but is not presented here.)

APPENDIX X. Department of Transportation Requirement for Hazmat Employee Training (49 CFR § 172.700 HM-232).

(a) Hazmat employee training must include the following:

(1) *General awareness/familiarization training.* Each hazmat employee shall be provided general awareness/familiarization training designed to provide familiarity with the requirements of this subchapter, and to enable the employee to recognize and identify hazardous materials consistent with the hazard communication standards of this subchapter.

(2) *Function-specific training.*

(i) Each hazmat employee must be provided function-specific training concerning requirements of this subchapter, or exemptions or special permits issued under subchapter A of this chapter, that are specifically applicable to the functions the employee performs.

(ii) As an alternative to function-specific training on the requirements of this subchapter, training relating to the requirements of the ICAO Technical Instructions and the IMDG Code may be provided to the extent such training addresses functions authorized by subpart C of part 171 of this subchapter.

(3) *Safety training.* Each hazmat employee shall receive safety training concerning -

(i) Emergency response information required by subpart G of part 172;

(ii) Measures to protect the employee from the hazards associated with hazardous materials to which they may be exposed in the workplace, including specific measures the hazmat employer has implemented to protect employees from exposure; and

(iii) Methods and procedures for avoiding accidents, such as the proper procedures for handling packages containing hazardous materials.

(4) *Security awareness training.* Each hazmat employee must receive training that provides an awareness of security risks associated with hazardous materials transportation and methods designed to enhance transportation security. This training must also include a component covering how to recognize and respond to possible security threats. New hazmat employees must receive the security awareness training required by this paragraph within 90 days after employment.

(5) *In-depth security training.* Each hazmat employee of a person required to have a security plan in accordance with subpart I of this part who handles hazardous materials covered by the plan, performs a regulated function related to the hazardous materials covered by the plan, or is responsible for implementing the plan must be trained concerning the security plan and its implementation. Security training must include company security objectives, organizational security structure, specific security procedures, specific security duties and responsibilities for each employee, and specific actions to be taken by each employee in the event of a security breach.

(b) *OSHA, EPA, and other training.* Training conducted by employers to comply with the hazard communication programs required by the Occupational Safety and Health Administration of the Department of Labor (29 CFR 1910.120 or 1910.1200) or the Environmental Protection Agency

APPENDIX X (cont.). Department of Transportation Requirement for Hazmat Employee Training (49 CFR § 172.700 HM-232).

(40 CFR 311.1), or training conducted by employers to comply with security training programs required by other Federal or international agencies, may be used to satisfy the training requirements in paragraph (a) of this section to the extent that such training addresses the training components specified in paragraph (a) of this section.

(c) Initial and recurrent training -

(1) Initial training. A new hazmat employee, or a hazmat employee who changes job functions may perform those functions prior to the completion of training provided -

(i) The employee performs those functions under the direct supervision of a properly trained and knowledgeable hazmat employee; and

(ii) The training is completed within 90 days after employment or a change in job function.

(2) Recurrent training. A hazmat employee must receive the training required by this subpart at least once every three years. For in-depth security training required under paragraph (a)(5) of this section, a hazmat employee must be trained at least once every three years or, if the security plan for which training is required is revised during the three-year recurrent training cycle, within 90 days of implementation of the revised plan.

(3) Relevant Training. Relevant training received from a previous employer or other source may be used to satisfy the requirements of this subpart provided a current record of training is obtained from hazmat employees' previous employer.

(4) Compliance. Each hazmat employer is responsible for compliance with the requirements of this subchapter regardless of whether the training required by this subpart has been completed.

(d) Recordkeeping. Each hazmat employer must create and retain a record of current training of each hazmat employee, inclusive of the preceding three years, in accordance with this section for as long as that employee is employed by that employer as a hazmat employee and for 90 days thereafter. A hazmat employer must make a hazmat employee's record of current training available upon request, at a reasonable time and location, to an authorized official of the Department of Transportation or of an entity explicitly granted authority to enforce the HMR. The record must include:

(1) The hazmat employee's name;

(2) The most recent training completion date of the hazmat employee's training;

(3) A description, copy, or the location of the training materials used to meet the requirements in paragraph (a) of this section;

(4) The name and address of the person providing the training; and

(5) Certification that the hazmat employee has been trained and tested, as required by this subpart.

APPENDIX X (cont.). Department of Transportation Requirement for Hazmat Employee Training (49 CFR § 172.700 HM-232).

(e) *Limitations.* The following limitations apply:

(1) A hazmat employee who repairs, modifies, reconditions, or tests packagings, as qualified for use in the transportation of hazardous materials, and who does not perform any other function subject to the requirements of this subchapter, is not subject to the training requirement of paragraph (a)(3) of this section.

(2) A railroad maintenance-of-way employee or railroad signalman, who does not perform any function subject to the requirements of this subchapter, is not subject to the training requirements of paragraphs (a)(2), (a)(4), or (a)(5) of this section.

APPENDIX XI. Cited Sections of California Code of Regulations. Title 16. Professional and Vocational Regulations. Division 19 Structural Pest Control Board.

Article 3.5. Continuing Education. Section 1950. Continuing Education Requirements (a-d & g).

- (a) Except as provided in section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action under section 8641 of the code.
- (b) Each licensee is required to complete a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.
- (c) Operators licensed in one branch of pest control shall complete 16 continuing education hours during each three year renewal period. Operators licensed in two branches of pest control shall complete 20 continuing education hours during each three year renewal period. Operators licensed in three branches of pest control shall complete 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be completed for each branch license, a minimum of two hours in Integrated Pest Management as defined in section 1984 must be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.
- (d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control shall have completed 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be completed for each branch of pest control licensed, a minimum of two hours in Integrated Pest Management must be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

APPENDIX XI (cont.). Cited Sections of California Code of Regulations. Title 16. Professional and Vocational Regulations. Division 19 Structural Pest Control Board.

- (g) Operators who hold a field representative's license in a branch of pest control in which they do not hold an operator's license must complete four of the continuing education hours required by section 1950(c) in a technical subject directly related to the branch or branches of pest control in which the field representative's license is held, in order to keep the field representative's license active.

Article 3.5. Continuing Education. Section 1950.5. Hour Value System.

The following hour values shall be assigned to the educational activities approved by the Board. All educational activities must be submitted to the Board for approval before presentation for continuing education credit, in accordance with section 1953. Each activity approved for technical or rules and regulations continuing education hours must include a written examination to be administered at the end of the course. Examinations administered at the end of the course must consist of ten questions per one hour of instruction, with 40 questions minimum for any activity of instruction of four hours or more. Licensees must obtain a passing score of 70% or better in order to obtain a certificate of course completion. If the examination is failed, the licensee shall be allowed to be reexamined by taking a different examination within sixty days.

- (a) Accredited college courses -10 hours for each 2 semester-unit course; 16 hours for each 3 semester-unit course.
- (b) Adult education courses -6 hours
- (c) Professional seminars or meetings -up to a maximum of 6 hours per seminar or meeting. Additional hours may be approved depending on the complexity of the activity and its relevance to new developments in the field of pest control.
- (d) Technical seminars or meetings -up to a maximum of 6 hours per seminar or meeting. Additional hours may be approved depending on the complexity of the activity and its relevance to new developments in the field of pest control.
- (e) Operators' courses approved by the Board pursuant to section 8565.5 of the code -1 hour per hour of instruction.
- (f) Correspondence courses developed by the Board pursuant to section 8565.5 of the code - full credit per branch.
- (g) Correspondence courses approved by the Board -hours will be assigned depending on the complexity of the course and its relevance to new developments in the field of pest control.
- (h) Association meetings -1 hour for every hour of instruction up to a maximum of 4 hours per meeting.

APPENDIX XI (cont.). Cited Sections of California Code of Regulations. Title 16. Professional and Vocational Regulations. Division 19 Structural Pest Control Board.

- (i) Structural Pest Control Board meetings -1 general hour and 1 rule and regulation hour per meeting, up to a maximum of 4 hours per renewal period (excluding Board Members.)
This activity is exempt from examination requirements pursuant to this section.
- (j) Structural Pest Control Board Committee meetings -1 hour per meeting, up to a maximum of 2 hours per renewal period (excluding Board Members).
- (k) In-house training in technical subjects -1 hour per hour of instruction.
- (l) Board approved Rules and Regulations courses -1 hour for every hour of instruction.
- (m) Integrated Pest Management courses -1 hour for every hour of instruction.

Article 4. Fumigation and Pesticide Use. Section 1970. Standards and Records Requirements (a).

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. If the fumigation is to be performed by a fumigation subcontractor, the subcontractor shall complete the fumigation log and forward a copy of the log to the primary contractor within ten business days.

- (a) The log (See Form 43M-47 (Rev. 5/07) 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.

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

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, air ducts, or vacuum systems that could allow the passage of fumigant from the structure to be fumigated to any adjacent or

APPENDIX XI (cont.). Cited Sections of California Code of Regulations. Title 16. Professional and Vocational Regulations. Division 19 Structural Pest Control Board.

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.

APPENDIX XII Application for Continuing Education Activity, Form 43M-18.



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
STRUCTURAL PEST CONTROL BOARD-ADMINISTRATION UNIT
 2005 EVERGREEN STREET, STE. 1500 SACRAMENTO, CA 95815
 P 916-561-8700 | F 916-263-2469 | WWW.PESTBOARD.CA.GOV



APPLICATION FOR CONTINUING EDUCATION ACTIVITY

Please complete this request and return with:

1. Course outline (hour by hour)
2. Copies of all materials (textbooks, handouts, etc.)
3. Copies of all examinations
4. Copies of any promotional materials
5. Copy of certificate of completion provided to licensees
6. Payment of \$25

FEE \$25

NOTE: APPLICATION FOR INSTRUCTOR ON NEXT PAGE

NAME OF PROVIDER	CONTACT PERSON	TELEPHONE NO.
ADDRESS		
TITLE OF ACTIVITY		FEE CHARGED
<input type="checkbox"/> CONTINUOUS <input type="checkbox"/> ONE TIME ONLY – DATE: _____		TOTAL HOURS
TYPE OF ACTIVITY		
<input type="checkbox"/> CORRESPONDENCE <input type="checkbox"/> ASSOCIATION MEETING <input type="checkbox"/> IN-HOUSE TRAINING <input type="checkbox"/> PROFESSIONAL ACTIVITY		
TYPE OF CREDIT REQUESTED		
<input type="checkbox"/> RULES & REGULATIONS <input type="checkbox"/> TECHNICAL ACTIVITY <input type="checkbox"/> IPM <input type="checkbox"/> GENERAL		
BRIEF DESCRIPTION OF ACTIVITY		
METHOD OF EVALUATION		
DO NOT WRITE BELOW THIS LINE		

ACTIVITY # _____ TOTAL HOURS _____ RA FR OPR

- RULES & REGULATIONS
- PAU
- TECHNICAL: Branch 1 Branch 2 Branch 3
- IPM
- GENERAL

- APPROVED
- DENIED

SIGNATURE

DATE

APPENDIX XIII. Application for Continuing Education Activity Instructor, Form 43M-18.

INSTRUCTOR APPLICATION

NAME		TELEPHONE NO.
ADDRESS		
NAME OF PROVIDER		
NAME OF ACTIVITY TO BE INSTRUCTED		
Section 1953(d)(4) of the Structural Pest Control Boards Rules and Regulations states that instructors for continuing education must be credential instructors or meet two of the below equivalent experience requirements.		
EDUCATION		
CREDENTIALLED INSTRUCTOR IN COURSE AREA? <input type="checkbox"/> YES <input type="checkbox"/> NO	COURSE OF STUDY	
SCHOOL/COLLEGE/UNIVERSITY	DEGREE RECEIVED	YEAR RECEIVED
EQUIVALENT EXPERIENCE		
LIST TRAINING ACTIVITIES COMPLETED IN SUBJECT MATTER		
LIST ACTIVITIES YOU HAVE INSTRUCTED ON THE SUBJECT MATTER		
ARE YOU LICENSED BY THE STRUCTURAL PEST CONTROL BOARD? <input type="checkbox"/> YES (LIST LICENSE #) _____ <input type="checkbox"/> NO	DID YOU AUTHOR THE COURSE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
LIST EMPLOYMENT FOR THE LAST THREE YEARS		
The information on this application is required pursuant to section 8500 inclusive of the Business and Professions Code and is maintained by the Structural Pest Control Board, 2005 Evergreen Street, Ste. 1500 Sacramento, CA 95815-3831, (916) 561-8700. All information requested in this application is mandatory. Failure to provide any of the requested information will result in the application being rejected as incomplete. This information may be transferred to other law enforcement agencies. You have a right of access to records maintained by this agency which contain personal information about you.		
SIGNATURE	DATE	

43M-18

APPENDIX XIV. Certificate of Completion (CEU Course), Form 43M-38 (5/87).

CERTIFICATE OF COMPLETION

LICENSEE'S NAME:				LICENSE NUMBER:	
ACTIVITY TITLE:				DATE OF ACTIVITY:	
ACTIVITY NUMBER:	EDUCATIONAL ACTIVITY:	HOURS ATTENDED:	HOURS EARNED:	BRANCH:	TECHNICAL/GENERAL

THIS IS TO CERTIFY THAT THE ABOVE NAMED LICENSEE HAS
SUCCESSFULLY COMPLETED THE ABOVE NUMBERED ACTIVITY.

INSTRUCTOR'S SIGNATURE

DATE

NOTE: DO NOT SEND THIS CERTIFICATE TO THE BOARD.
The above hours are approved for Structural Pest Control Board license renewal. Original continuing education certificates are subject to Board audit and should be RETAINED by you for three years.

43M-38 (NEW 5/87)

APPENDIX XVII. Fumigation Log Form, Form 43M-47 (Rev. 5/07).

STANDARD STRUCTURAL FUMIGATION LOG				
ADDRESS OF PROPERTY CITY			DATE OF FUMIGATION	
BRANCH CO. AND ADDRESS (SUBCONTRACTOR)		PRIME CONTRACTOR NAME AND ADDRESS		
CO. REG. #		CO. REG. #		
OWNER/AGENT NAME AND ADDRESS			FIRE DEPT. NOTIFIED (DATE)(HOUR)	
PROPERTY DESCRIPTION			C.A.C. NOTIFIED (METHOD)(DATE)(HOUR)	
NOTES OR COMMENTS				
SECTION 1				
FUMIGANT RELEASED	TARGET PEST	WARNING AGENT	CUBK FEET	OUNCES USED
FUMIGANT / E.P.A. REGISTRATION NO.		SEALING METHOD	DATE/TIME GAS INTRODUCED	
		CYLINDER SERIAL NO.	WT. BEFORE INTRO.	POUNDS APPLIED
WIND M.P.H.	AIR TEMP.	CYLINDER SERIAL NO.	WT. BEFORE INTRO.	POUNDS APPLIED
		CYLINDER SERIAL NO.	WT. BEFORE INTRO.	POUNDS APPLIED
EXTRAORDINARY PRECAUTIONS			TOTAL POUNDS	
<input type="checkbox"/> FUMIGUIDE B <input type="checkbox"/> FUMIGUIDE Y <input type="checkbox"/> VIKANE CALCULATOR <input type="checkbox"/> FUMICALC CALCULATOR <input type="checkbox"/> OTHER _____				
DOSAGE FACTOR _____ UNDER SEAL _____ TARP CONDITION _____ TEMPERATURE _____ SEAL CONDITION _____ HOURS EXPOSURE _____ WIND (MPH) _____ MONITOR JOB (YES / NO) _____ VOLUME _____				
CREW MEMBERS NAMES				
WAS REQUIRED SAFETY EQUIP. PROVIDED? YES <input type="radio"/> NO <input type="radio"/>		LICENSEE RELEASING FUMIGANT SIGNATURE		LICENSE NO.
SECTION 2				
VENTILATION COMMENCED	AERATION COMMENCED		TARP / SEAL CONDITION	
	DATE	TIME		
CREW MEMBERS NAMES				
WAS REQUIRED SAFETY EQUIP. PROVIDED? YES <input type="radio"/> NO <input type="radio"/>		LICENSEE COMMENCING VENTILATION SIGNATURE		LICENSE NO.
SECTION 3				
RELEASED FOR OCCUPANCY	TESTING DEVICE USED		PROPERTY CERTIFIED SAFE FOR RE-ENTRY	
			DATE/TIME	
CREW MEMBERS NAMES				
WAS REQUIRED SAFETY EQUIP. PROVIDED? YES <input type="radio"/> NO <input type="radio"/>		LICENSEE RELEASING PROPERTY FOR OCCUPANCY SIGNATURE		LICENSE NO.