

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

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** No hearing is scheduled for the proposed regulations.

**Subject Matter of the Proposed Regulation:** Examinations

**Sections Affected:** California Code of Regulations (CCR), Title 16, sections 1940, 1940.1, 1941, and 1942.<sup>1</sup>

**Background:** The Structural Pest Control Board (Board) is responsible for licensing and regulating pest control professionals in California pursuant to the provisions of Business and Professions Code (BPC) sections 8500 and following (commonly referred to as the Structural Pest Control Act (“Act”). The license types include applicator, field representative, and operator and fall into three branches in California: Branch 1 - fumigation, Branch 2 - general pest, and Branch 3 - termite. The Board licenses an estimated 24,200 pest control professionals, including approximately 6,000 applicators, 14,000 field representatives, and 4,200 operators. Protection of the public is the Board’s highest priority in exercising its licensing, regulatory, and disciplinary functions.

BPC section 8525 authorizes the Board, in accordance with the Administrative Procedure Act (APA) (Government Code sections 11340 et. seq.), to adopt, amend, repeal and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by BPC section 8560 and the administration of the Act. BPC section 8560 gives the Board authority to develop and administer examinations including to “make rules and regulations for the purpose of securing fair, impartial, and proper examinations.” BPC section 8560(g) establishes that each examination shall be in each of the subjects specified in the branch or branches relating to the specific applications and that a license shall be granted to any applicant “who shall make a general average of not less than 70 percent on each of the subjects of the branch or branches.” However, the Board does not currently have examination requirements specified in regulations.

The Department of Consumer Affairs’ (DCA) Office of Professional Examination Services (OPES) provides professional consulting services in examination validation and development to this Board and other DCA boards, bureaus, and committees, and provides recommendations based on regulations, professional guidelines, and technical standards related to licensure examinations. OPES guidance helps the Board

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<sup>1</sup> All CCR references are to Title 16 unless otherwise noted.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 1 of 33</b>
<b>16 CCR 1940, 1940.1, 1941, and 1942</b>	Examinations	December 18, 2025

implement department-wide examination validation policies in accordance with legislative requirements for examination validation set forth in BPC section 139.

OPES has completed occupational analyses of the structural pest control professions regulated by this Board and developed examination plan outlines to specify content to ensure entry level competence in the specified structural pest control license and branch in California (see reports in Underlying Data). Based on the findings of these analyses, the Board seeks to formalize its examination requirements in regulations in compliance with BPC section 139. These changes are intended to better protect California consumers by ensuring examinations meet minimum standards for qualifying applicants for licensure.

**Problem Being Addressed:** The Board’s current regulations do not address the examinations that the Board administers for its licensees. They do not reflect the current laws and procedures for examination application and administration. The current regulations also do not reflect minimum examination and certification standards required by the United States Environmental Protection Agency (U.S. EPA).

*Alignment with Federal Core Competency and Examination Requirements and DPR Regulations*

In 1974, the U.S. EPA adopted 40 Code of Federal Regulations (CFR) Part 171 titled “Certification of Pesticide Applicators” to ensure state certification programs protect applicators, the public, and the environment from the risks associated with restricted use pesticides (RUPs). RUPs are those that the U.S. EPA has determined may cause unreasonable adverse effects on the environment and pose a risk of injury to applicators or bystanders if not used in accordance with label instructions (see 40 CFR § 152.170). To manage these risks, federal law limits the use of RUPs to **certified** applicators or individuals working under the direct supervision of a certified applicator.

Effective May 22, 2018, the U.S. EPA amended 40 CFR Part 171 to strengthen applicator certification standards. These amendments require state certifying agencies, such as the Board, to adopt or exceed federal “core standards” for commercial applicators, as set forth in 40 CFR § 171.103, and to ensure that examination procedures assess minimum competency. Furthermore, 40 CFR § 171.303(b)(2)(i) requires state certification plans to include citations of specific statutes or regulations demonstrating adoption of these federal standards.

Under California’s regulatory framework, the Board licenses and certifies individuals who apply California restricted materials, which include RUPs (as defined in California Code of Regulations, tit. 3, section 6400(a)), as well as individuals who perform structural pest control for hire regardless of whether RUPs are used. The Board coordinates with and consults the Department of Pesticide Regulation (DPR) to ensure implementation of California’s pesticide laws and regulations is consistent with federal

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 2 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

requirements and California’s state certification plan under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. §§ 136–136y).

To maintain compliance with the federal certification standards, DPR revised its regulations governing pesticide applicator certification and training in Title 3, California Code of Regulations, Division 6, including examination content requirements at 3 CCR § 6504. These DPR regulations became effective January 1, 2024.

These proposed regulations will align the Board’s examination regulations with federal core competency requirements and DPR’s regulations. California law at Food and Agricultural Code (FAC) section 14015 restricts the use or possession of RUPs to the following:

Except as provided by regulation adopted by the director, a restricted material shall only be possessed or used by, or under the direct supervision of, a private applicator, who is certified pursuant to Section 14093, or a certified commercial applicator, as defined by Section 6000 of Title 3 of the California Code of Regulations.

Accordingly, the amended federal core competency requirements apply only to Board licensees who qualify as certified commercial applicators—Operators and Field Representatives—and their respective license branches. These proposed regulations update the Board’s examination regulations to clearly demonstrate that the federal core standards are met through its examination process for those license types, thereby ensuring continued compliance with U.S. EPA and DPR requirements.

### *Compliance with Examination Validation Requirements*

The Legislature has recognized that occupational analyses and examination validation studies are fundamental components of licensure programs. (BPC section 139, subd. (a).) DCA’s Departmental Licensure Examination Validation Policy (OPES 22-01) recognizes the same. Licensure examinations with substantial validity evidence are essential in preventing unqualified individuals from obtaining professional licenses. To that end, licensure examinations must be:

- Developed according to an examination outline that is based on a current occupational analysis.
- Regularly evaluated.
- Updated when tasks performed or prerequisite knowledge in a profession change, or to prevent overexposure of test questions; and
- Reported annually, in terms of validation activities, to the Legislature.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 3 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

Although the Board’s existing licensing exams already meet federal standards covering the core standards set forth in 40 CFR § 171.103, the Board has not yet adopted regulations explicitly referencing the core standards as required by 40 CFR § 171.303(b)(2)(i). A comprehensive review conducted in partnership with OPES confirmed that the Board’s exams align with federal standards (see memo from Heidi Lincer, Chief of OPES, dated June 11, 2025, in Underlying Data). As discussed above, OPES has validated the Board’s examinations pursuant to the DCA policy noted above and, as a result, this proposal is necessary to implement and update the Board’s validated content and standards in regulation for its examinations.

The Board is proposing changes to CCR sections 1940, 1941, 1942, and adoption of CCR section 1940.1, to establish minimum standards and procedures for the applicator, field representative, and operator license examinations administered by the Board. Amendments to CCR section 1940 would also establish that upon passing an exam, applicants may submit an application for an applicator, field representative or operator license, and would further provide a definition for “pass” or “passing” a Board examination. The changes to CCR section 1940 would generally specify the latest content areas, tasks, and associated knowledge statements for these exams by incorporating by reference the following:

- Examination Outline for the California Applicator Examination published in the memorandum entitled “Occupational Analysis of the Applicator Profession” from the Chief of the Office of Professional Examination Services to the board’s Executive Officer, dated March 9, 2023.
- Table 10 – Examination Outline for the Branch 1 Field Representative Profession published in the document entitled “*Occupational Analysis of the Branch 1 Field Representative Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated August 2019.
- Table 14 – Branch 2 Field Representative Examination Outline 2025 published in the document entitled “*Occupational Analysis of the Branch 2 Field Representative Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated July 2025.
- Table 13 – Examination Content Outline: Branch 3 Field Representative published in the document entitled “*Occupational Analysis of the Branch 3 Field Representative Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated January 2017.
- Table 10 – Examination Outline for The Branch 1 Operator Profession published in the document entitled “*Occupational Analysis of the Branch 1 Operator Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated August 2019.
- Table 14 – Branch 2 Operator Examination Outline 2025 published in the document entitled “*Occupational Analysis of the Branch 2 Operator Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated July 2025.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 4 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

- Table 13 – Examination Outline for Branch 3 Operator Profession published in the document entitled “*Occupational Analysis of the Branch 3 Operator Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated August 2017.
- Code of Federal Regulations, Title 40, §§ 171.103(c), 171.103(d)(7) and 171.103(d)(14), dated July 1, 2023.

The Board also proposes to update its requirements for taking an examination. This would include adopting standards for submission of a completed application for examination in proposed new CCR section 1940.1, amending requirements for submitting a re-examination application at CCR section 1942, and amending existing regulations relating to consequences for an applicant’s failure to appear for examination in CCR section 1941. These updates would include the following:

*Application for Examination (CCR section 1940.1):*

- Application submission criteria and requirements for submission of a fee, as specified,
- Disclosure of specified identifying and contact information,
- Disclosure regarding whether the applicant has previously applied for examination,
- Disclosure regarding whether the applicant is presently or was previously licensed with the Board,
- Disclosure regarding whether the applicant is requesting a reasonable accommodation and, if so, requiring medical documentation, as specified,
- A statement signed by the applicant under penalty of perjury that the information provided in the application for examination is true and correct,
- A copy of the applicant’s “acceptable government-issued photo identification,” as specified,
- For Branch 1, 2, or 3 operator licenses, submission of satisfactory proof of completing the applicable courses required by BPC section 8565.5, as specified, and,
- Setting the Board’s requirements for confirming the application for examination is complete and sending notice of written approval to the applicant and the examination vendor and specifying the contents of the notice and an applicant’s responsibilities.

*Failure to Appear for an Examination (CCR section 1941):*

- The title would be revised from “Failure to Appear for Operator or Field Representative’s Examinations” to “Failure to Appear for an Examination,”
- Existing references to “operator’s or field representative’s” would be repealed and replaced with a general cross-reference to all examinations in CCR section 1940, and,
- The section would be amended to add a cross-reference to the new application requirements for examination proposed at CCR section 1940.1.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 5 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

*Application for Re-Examination (CCR section 1942):*

- Strike existing references to when an applicant “fails” an operator’s or field representative’s exam and replace it with “does not pass an examination” as specified in CCR section 1940,
- Strike existing references to a requirement that an applicant may take another examination only “within six months thereafter” (after taking a prior exam),
- Application submission criteria and requirements for submission of a fee, as specified,
- Disclosure of specified identifying and contact information,
- A statement signed by the applicant under penalty of perjury that the information provided in the application for examination is true and correct,
- Setting the Board’s requirements for confirming the application for examination is complete and sending notice of written approval to the applicant and the examination vendor, and specifying the contents of the notice and an applicant’s responsibilities, and,
- Providing a definition of “acceptable government-issued photo identification” required for presentation at the exam location prior to taking an exam consistent with the definition set forth in CCR section 1940.1.

The specific changes to the regulations and the reasons for these changes are provided in further detail below.

**Anticipated benefits from this regulatory action:** The proposed amendments make the Board’s examination requirements consistent with current state and federal law, establish clear procedures for examination administration, incorporate minimum standards for exam validation, and strengthen consumer protection.

The Board anticipates that the updated regulations will serve as a more effective tool for the Board, examination applicants, licensees, and the public by providing a clear and comprehensive overview of the Board’s examinations and related procedures. These changes are designed to better protect California consumers by confirming that examinations meet minimum competency standards for licensure and by ensuring consistency and fairness in the Board’s examination processes.

The proposed regulations will also benefit the health and welfare of California residents, certified applicators, and the environment by aligning examination and certification standards with the federal framework governing the safe use of RUPs.

The proposal meets the minimum federal standards for examination and licensure of field representatives and operators who apply RUPs in this State, reducing the likelihood of improper applications and accidental exposures. Certified commercial applicators (field representatives and operators) will be better equipped to follow pesticide labeling and

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 6 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

California laws by standardizing the exam content consistent with U.S. EPA regulations, ensuring safe and lawful use of RUPs.

**Specific purpose of, and rationale for, each adoption, amendment, or repeal:**

The Board proposes to:

- **Amend CCR section 1940 and its title “Notice of Operator’s and Field Representative’s Examinations.”**

**Amend Title, Note, and Repeal Introductory Paragraph**

**Purpose:** To revise the title of this section from “Notice of Operator’s and Field Representative’s Examinations” to “Examinations.” The revised title more accurately reflects the section’s expanded scope, which now encompasses general examination standards and requirements rather than solely examination notices. The existing introductory paragraph regarding operator’s and field representative’s examination notices and specifying the method of delivery to the applicant would be repealed.

In addition, the Note is updated to accurately reflect the BPC sections that authorize and relate to the Board’s examination requirements and processes.

**Rationale:** This amendment updates the section title to align with the broadened content of CCR section 1940, which now consolidates the Board’s examination requirements and standards for all license types. The new title, “Examinations,” more accurately describes the section’s purpose and provides clearer guidance to applicants seeking information on examination requirements.

The existing introductory paragraph is deleted as unnecessary because CCR sections 1940 and 1940.1 now serve as the comprehensive sources for examination standards and procedures. Provisions related specifically to examination notices have been relocated to new CCR section 1940.1, which details the application content, method of delivery and scheduling process for examinations. This reorganization improves clarity, eliminates redundancy, and groups related provisions in a more logical and accessible format for applicants and staff.

The existing Note cited only BPC sections 8525 and 8560. Because section 1940 is being expanded to cover examination standards, content, and procedures for all license types, additional related code sections must be included.

The updated Note now adds BPC sections 8561, 8563, 8564.5, 8565, 8565.5, 8566, and 8674, which outline examination and qualification requirements for applicators, field representatives, and operators. Updating the Note ensures the regulation cites all relevant statutes it implements and reflects the full legal authority for the changes.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 7 of 33</b>
<b>16 CCR 1940, 1940.1, 1941, and 1942</b>	Examinations	December 18, 2025

Adopt new subsection (a)

Purpose: To specify that passing the Board’s examination for the license type and branch for which the applicant is applying is a condition of licensure and to establish that each examination is based on validated content areas, tasks, and associated knowledge statements (“subjects”) specific to the license type and branch identified in the applicable paragraphs that follow (paragraph nos. (1)-(7) of this subsection).

Rationale: This subsection formalizes the requirement that applicants must pass the Board’s examination corresponding to the license type and branch for which they apply in accordance with BPC section 8560(g), which requires the examinations to be “in each of the subjects specified in the branch or branches relating to the specific applications.” It also clarifies that each examination assesses the subject areas identified through occupational analyses conducted by OPES. This ensures consistency, transparency, and alignment across all examinations administered by the Board and identified in the applicable paragraphs that follow (listed as paragraph nos. (1)-(7)).

Including this language provides notice and improves transparency for applicants by clearly explaining how examinations are structured and what competencies are evaluated. It ensures all examinations are developed using validated job analyses that measure minimum competency for safe and effective practice.

This amendment also provides a logical framework for the detailed examination standards that follow in paragraphs (1) through (7), helping applicants, staff, and stakeholders understand the relationship between each license type and its corresponding examination content.

Adopt new Subsections (a)(1) - (a)(7)

Purpose: To identify the validated source documents, occupational analyses, and federal competency standards (as applicable) that form the basis for each of the Board’s examinations. This proposal would add paragraphs (1)-(7) to this subsection that specify by title the type of Board examination and subjects tested on each corresponding examination type as follows:

- (1) **Applicator License:** The California Applicator Examination shall test applicants on any or all of the subjects covered in the examination outline titled “Attachment A: Examination Outline for the California Applicator Examination,” which is hereby incorporated by reference, and published in the memorandum entitled “Occupational Analysis of the Applicator Profession” from the Chief of the Office of Professional Examination Services to the board’s Executive Officer, dated March 9, 2023.
  
- (2) **Field Representative License, Branch 1:** The Branch 1 Field Representative Examination shall test applicants on any or all of the subjects covered in: (A) the examination outline titled “Table 10 – Examination Outline for the Branch 1 Field

Representative Profession,” which is hereby incorporated by reference, and published in the document entitled “*Occupational Analysis of the Branch 1 Field Representative Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated August 2019; and, (B) the federal core and category-specific competency standards specified in 40 CFR §§ 171.103(c) and 171.103(d)(14), dated July 1, 2023, which are hereby incorporated by reference.

- (3) **Field Representative License, Branch 2:** The Branch 2 Field Representative Examination shall test applicants on any or all of the subjects covered in: (A) the examination outline titled “Table 14 – Branch 2 Field Representative Examination Outline 2025,” which is hereby incorporated by reference and published in the document entitled “*Occupational Analysis of the Branch 2 Field Representative Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated July 2025; and, (B) the federal competency standards specified in 40 CFR §§ 171.103(c) and 171.103(d)(7), dated July 1, 2023, which are hereby incorporated by reference.
- (4) **Field Representative License, Branch 3:** The Branch 3 Field Representative Examination shall test applicants on any or all of the subjects covered in: (A) the examination outline titled “Table 13 – Examination Content Outline: Branch 3 Field Representative,” which is hereby incorporated by reference and published in the document entitled “*Occupational Analysis of the Branch 3 Field Representative Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated January 2017; and, (B) the federal competency standards specified in 40 CFR §§ 171.103(c) and 171.103(d)(7), dated July 1, 2023, which are hereby incorporated by reference.
- (5) **Operator License, Branch 1:** The Branch 1 Operator Examination shall test applicants on any or all of the subjects covered in: (A) the examination outline titled “Table 10 – Examination Outline For The Branch 1 Operator Profession,” which is hereby incorporated by reference and published in the document entitled “*Occupational Analysis of the Branch 1 Operator Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated August 2019; and, (B) the federal competency standards specified in 40 CFR §§ 171.103(c) and 171.103(d)(14), dated July 1, 2023, which are hereby incorporated by reference.
- (6) **Operator License, Branch 2:** The Branch 2 Operator Examination shall test applicants on any or all of the subjects covered in: (A) the examination outline titled “Table 14 – Branch 2 Operator Examination Outline 2025,” which is hereby incorporated by reference and published in the document entitled “*Occupational Analysis of the Branch 2 Operator Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated July 2025; and, (B) the federal competency standards specified in 40 CFR §§ 171.103(c) and 171.103(d)(7), dated July 1, 2023, which are hereby incorporated by reference.

(7) **Operator License, Branch 3:** The Branch 3 Operator Examination shall test applicants on any or all of the subjects covered in: (A) the examination outline titled “Table 13 – Examination Outline For Branch 3 Operator Profession,” which is hereby incorporated by reference and published in the document entitled “*Occupational Analysis of the Branch 3 Operator Profession*” by the Department of Consumer Affairs’ Office of Professional Examination Services, dated August 2017; and, (B) the federal competency standards specified in 40 CFR §§ 171.103(c) and 171.103(d)(7), dated July 1, 2023, which are hereby incorporated by reference.

Rationale: These additions ensure that all examinations are based on current, validated job analyses developed by OPES in compliance with the scope of practices and examination requirements for each profession, and, where applicable, aligned with federal standards under 40 CFR Part 171. This structure provides transparency to applicants, promotes defensible testing practices, and ensures that each license type and branch examination measures the competencies necessary for safe and effective practice.

These documents represent the most recent occupational analyses conducted by OPES and reflect the current knowledge, skills, and tasks required for entry-level competency specified in the Act (see minimum examination content required at BPC section 8564.4(b) for applicators, BPC section 8565 for operators, and BPC section 8566 for field representatives). The inclusion of the appropriate federal standards, where applicable, ensures that California’s examinations meet national requirements for pesticide applicator certification and the mandates in the DPR’s and EPA’s regulations as discussed in the Background section above and in greater detail below in the “Need for Inclusion of the Appropriate Federal Standards” section of this document.

BPC section 8560 tasks the Board with developing and administering the licensing exams required for each structural pest control license type and branch to ensure applicants meet the minimum competency standards for licensure. As a qualification for licensure, the Board must require each applicant to successfully pass a written examination administered by the Board. (BPC sections 8560, 8561, and 8563.)

The Legislature has recognized that occupational analyses and examination validation studies are fundamental components of licensure programs. (BPC section 139, subd. (a).) The DCA is required to develop a policy regarding examination development and validation, and occupational analysis in consultation with the Board. (BPC section 139, subd. (b).) This policy is required to address the following issues:

- A. An appropriate schedule for examination validation and occupational analyses, and circumstances under which more frequent reviews are appropriate.
- B. Minimum requirements for psychometrically sound examination validation, examination development, and occupational analyses, including standards for sufficient number of test items.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 10 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

- C. Standards for review of state and national examinations.
- D. Setting of passing standards.
- E. Appropriate funding sources for examination validations and occupational analyses.
- F. Conditions under which boards, programs, and bureaus should use internal and external entities to conduct these reviews.
- G. Standards for determining appropriate costs of reviews of different types of examinations, measured in terms of hours required.
- H. Conditions under which it is appropriate to fund permanent and limited term positions within a board, program, or bureau to manage these reviews.

Exam Validation Policy in Accordance with BPC Section 139

Pursuant to the DCA Departmental Licensure Examination Validation Policy (OPES 22-01), occupational analyses and examination development studies are components of licensure programs. Licensure examinations with substantial validity evidence are essential to ensure that only qualified individuals obtain a professional license. To that end, licensure examinations must be:

- Developed according to an examination outline that is based on a current occupational analysis.
- Regularly evaluated.
- Updated when tasks performed or prerequisite knowledge in a profession change, or to prevent overexposure of test questions.
- Reported annually, in terms of validation activities, to the Legislature.

Exam Validation Process for Developing Exam Outlines

In accordance with Policy OPES 22-01, OPES has developed the following exam validation process, which was used to develop the Board’s written exams referenced in this proposal. As a result, the Board provides this explanation of the process and justification for incorporating the referenced examination outlines.

The process for exam development begins when the Board requests that OPES conduct an occupational analysis (OA) of the specified structural pest control profession in California (Applicator, Field Representative in Branches 1, 2 or 3, or Operator in Branches 1, 2, or 3). The purpose of the OA is to define practice in terms of critical tasks that the applicant must be able to perform safely and competently at the time they are licensed. The results of this OA provide a description of practice for the specified profession and provide the basis for constructing a valid and legally defensible written examination.

OPES test specialists then research the profession extensively and meet with licensees (Subject Matter Experts or “SMEs”) working throughout California. The purpose of these meetings is to identify the tasks performed by those licensees and to specify the knowledge required to perform those tasks safely and competently. Using the

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 11 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

information gathered from the research and meetings, OPES test specialists develop a preliminary list of tasks performed by the SMEs in their practice, along with a list of the knowledge needed to perform those tasks.

OPES convenes a series of workshops with SMEs to review and refine the preliminary lists of tasks and knowledge statements describing the various licensee practices in California. The SMEs are from diverse backgrounds in the profession (e.g., geographic location, years licensed). After collecting data from the SMEs, OPES convenes a final workshop to review and finalize the preliminary lists of tasks and knowledge statements and to link each task with its corresponding knowledge statement.

After sufficient information is obtained from workshops, OPES develops the OA questionnaire and distributes it to a sample of actively practicing licensees statewide. The questionnaire asks licensees to rate tasks by frequency and importance and to rate knowledge statements by importance. The final number of respondents and the response rate is included in each OA report to the Board. OPES then analyzes the data to derive criticality indices for each task statement.

Once the data analysis is complete, OPES conducts a final workshop with SMEs to evaluate the criticality indices, finalize the task list, and verify the knowledge statements essential for safe and competent entry-level practice. The SMEs link tasks and knowledge statements, organize them into content areas, and assign weights to each content area.

The resulting examination outline identifies the tasks and knowledge critical to safe and competent practice in California and provides the basis for developing the Board's written examinations (see OA reports in Underlying Data).

Need for Inclusion of the Appropriate Federal Standards for Field Representative and Operator Licenses in paragraphs (2)-(7) in accordance with DPR regulations

In 1974, the U.S. EPA adopted 40 CFR Part 171 titled "Certification of Pesticide Applicators" to ensure state certification programs, such as the Board, protect applicators, the public, and the environment from the risks associated with RUPs. These are pesticides that the U.S. EPA has determined may cause adverse effects if misused. To manage these risks, the U.S. EPA requires RUPs to only be used only by *certified applicators or individuals working under their direct supervision*.

Effective May 22, 2018, the U.S. EPA updated 40 CFR Part 171 to strengthen certification standards (see Underlying Data). The updated regulations require state certifying agencies, such as the Board, to adopt federal "core standards" for commercial applicators as described in 40 CFR § 171.103, and to ensure their exam procedures assess minimum competency. 40 CFR § 171.303(b)(2)(i) further requires that state certification plans include a citation of the specific laws or regulations demonstrating adoption of these federal standards. These regulations are therefore necessary to meet those federal EPA regulatory requirements by adopting specific citations to the

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 12 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

corresponding applicable EPA regulation (through incorporation by reference per 1 CCR § 20) for each license type in the Board’s regulations.

These changes are also necessary to make the Board’s regulations consistent with DPR regulations. The U.S. EPA designates a single state lead agency to administer and enforce pesticide-use requirements, including certification standards for RUPs, by entering into cooperative agreements with states as authorized by Section 23(a)(1) of FIFRA (7 U.S.C. § 136u). U.S. EPA Region 9 has designated DPR as California’s lead pesticide agency responsible for certification, training, and oversight of pesticide applicators statewide. This structure is documented in the three-party Memorandum of Understanding with U.S. EPA Region 9, DPR, and the California Agricultural Commissioners and Sealers Association (CACASA), which confirms DPR’s statewide authority for pesticide program administration and the County Agricultural Commissioners’ role as the local enforcement authorities for pesticide use, restricted materials permitting, and compliance inspections (see Underlying Data).

Per FAC section 14015, DPR determines who is authorized to use or possess an RUP per regulation, and for the Board’s purposes, which structural pest control license types qualify as “certified applicators” of RUPs (see also FAC §§ 2881, 12980, §12981, giving DPR sole authority over pesticide-safety regulations, worker protection standards, and pesticide-handler training, and, §§ 11501, 12979–12982 – establishing the purpose of the laws DPR enforces and the regulatory scheme governing the safe use of pesticides statewide). However, FAC section 15201 clarifies the roles and responsibilities of the Board in this area:

The Legislature hereby finds and declares that it is the joint responsibility of the Department of Food and Agriculture, the commissioner of each county under the direction and supervision of the director, **and the Structural Pest Control Board to regulate the activities of structural pest control licensees. The Structural Pest Control Board has responsibility for licensing persons and companies engaged in structural pest control work.** The department has primary responsibility for enforcing pesticide laws and regulations. (Emphasis added.)

DPR’s regulation at 3 CCR section 6000 identifies the Board’s licensed Operators and Field Representatives as certified commercial applicators for the purposes of a RUP’s possession and use and expressly excludes the Board’s Applicator license. Because 40 CFR Part 171 requires states to adopt U.S. EPA’s federal core competency standards for all certified applicators, and because DPR, not the Board, determines which SPCB license types constitute certified applicators under California law, these federal core competency examination requirements would apply only to Operator and Field Representative applicants. Therefore, the proposal only lists the EPA exam content requirements for the Operator and Field Representative examinations consistent with

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 13 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

the examination standards for qualified applicators adopted by DPR at 3 CCR section 6504.

As noted above, this Board is tasked with administering examinations and issuing licenses for applicators, operators and field representatives. To provide all examination content requirements in one location and provide notice to applicants that these subjects will be tested on the examination, the Board incorporates by reference the specific EPA regulations that apply to each type of license as follows:

<b>California Certified Commercial Applicator License Type</b>	<b>Corresponding Federal Exam Content Requirement</b>
<p><u>Subsection (a)(2) Field Representative License, Branch 1:</u> includes authority to secure structural pest control work, identify infestations or infections, make inspections, and apply pesticides on behalf of a registered company (BPC § 8507). Branch 1 is authorized to perform fumigations as specified in BPC sections 8560(b)(1) and 8505.1.</p>	<p>40 CFR § 171.103(c): Core standards for all categories of certified commercial applicators.</p> <p>40 CFR § 171.103(d)(14): Non-soil fumigation.</p>
<p><u>Subsection (a)(3) Field Representative License, Branch 2:</u> includes authority to secure structural pest control work, identify infestations or infections, make inspections, and apply pesticides on behalf of a registered company (BPC § 8507(b)(1)). Branch 2 practice relates to the control of household pests, excluding fumigation with poisonous or lethal gases (BPC § 8507(b)(2)).</p>	<p>40 CFR § 171.103(c): Core standards for all categories of certified commercial applicators.</p> <p>40 CFR § 171.103(d)(7): Industrial, institutional, and structural pest control.</p>
<p><u>Subsection (a)(4) Field Representative License, Branch 3:</u> includes authority to secure structural pest control work, identify infestations or infections, make inspections, and apply pesticides on behalf of a registered company (BPC § 8507). Branch 3 practice relates 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.</p>	<p>40 CFR § 171.103(c): Core standards for all categories of certified commercial applicators.</p> <p>40 CFR § 171.103(d)(7): Industrial, institutional, and structural pest control.</p>

<b>California Certified Commercial Applicator License Type</b>	<b>Corresponding Federal Exam Content Requirement</b>
<p><u>Subsection (a)(5) Operator License, Branch 1:</u> operator licensees include any individual licensed by the Board to practice structural pest control, including with respect to household pests and wood destroying organisms that may invade households or other structures, the identification of infestations or infections, the making of inspections and inspection reports, submission of bids for or contracts for pest control work or the performance of any work including structural repairs or replacements, or the use of pesticides for the purpose of eliminating, exterminating, controlling or preventing infestations or infections of those pests or organisms. (BPC §§ 8505, 8506). Branch 1 is authorized to perform fumigations as specified in BPC sections 8560(b)(1) and 8505.1.</p>	<p>40 CFR § 171.103(c): Core standards for all categories of certified commercial applicators.</p> <p>40 CFR § 171.103(d)(14): Non-soil fumigation.</p>
<p><u>Subsection (a)(6) Operator License, Branch 2:</u> See definition for Operator license noted above. Branch 2 practice relates to the control of household pests, excluding fumigation with poisonous or lethal gases (BPC § 8507(b)(2)).</p>	<p>40 CFR § 171.103(c): Core standards for all categories of certified commercial applicators.</p> <p>40 CFR § 171.103(d)(7): Industrial, institutional, and structural pest control.</p>
<p><u>Subsection (a)(7) Operator License, Branch 3:</u> See definition for Operator license noted above. Branch 3 practice relates 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.</p>	<p>40 CFR § 171.103(c): Core standards for all categories of certified commercial applicators.</p> <p>40 CFR § 171.103(d)(7): Industrial, institutional, and structural pest control.</p>

These amendments are necessary to consolidate all exam content requirements into one location within regulations, ensure continued compliance with U.S. EPA certification requirements and DPR regulations, and improve transparency with the Board’s exam standards.

Adopt new subsection (b)

Purpose: Subsection (b) specifies that, upon passing an examination specified in this section, an applicant may submit an application for an applicator, field representative, or operator license pursuant to section 1936 or 1936.2, as applicable.

Rationale: Existing regulations at CCR sections 1936 and 1936.2 specify on the application forms incorporated by reference therein (Forms 43L-1 (Rev. 08/2024), 43L-14 (Rev. 08/2024) and 43L-21 (Rev. 08/2024) that applicants applying for an original license shall pass the SPCB’s applicable examination prior to submission of their application for an operator, field representative or applicator’s license. However, existing regulations do not specify the timing of when an applicant may first be eligible to submit a licensure application. This language clarifies and provides notice to applicants of how quickly they may submit an application for an original license to the Board and restates the steps required for eligibility for licensure (as the Board finds that some repetition is necessary for applicants to completely understand this process), supporting an organized process where passing the examination becomes a clearly understood condition for submitting a license application. Cross-references to the Board’s applicable licensing application requirements are necessary to avoid ambiguity and increase notice of the Board’s licensing application requirements.

Adopt new subsection (c)

Purpose: Subsection (c) defines “pass” or “passing” an examination specified in this section as a score consistent with the requirements set forth in BPC section 8560.

Rationale: Existing law or regulations do not provide the precise meaning of what the Board considers “pass” or “passing” the examinations specified in this section. This regulation would address that ambiguity by including a clear definition of what constitutes passing a Board exam or obtaining a "passing" score on these exams by specifying it is the score required by BPC section 8560, which sets the passing score for examination at “a general average of not less than 70 percent on each of the subjects of the branch or branches.” This provides applicants with an explicit standard and maintains consistency with BPC section 8560, ensuring transparency in the scoring criteria.

- **Adopt new CCR section 1940.1 and title “Application for Examination”**

Adopt new section 1940.1 titled “Application for Examination” and subsection (a).

Purpose: This proposal would add a new title for greater user notice and add subsection (a), which outlines application requirements for new applicants to submit a completed application for examination to the Board, methods of submitting the application (by hard copy to the Board’s current physical address or online through the Board’s online portal accessible through the Board’s website), and that a completed application shall include

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 16 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

the examination fee required by CCR section 1948 and the information listed in paragraphs (1)-(13).

Rationale: Existing Board regulations do not specify the process for an applicant seeking to take a Board examination specified in CCR section 1940. This regulation would address those requirements by setting forth those application content and submission requirements in this subsection needed to verify eligibility for examination that includes the requirement for a “completed” application that includes a list of items contained in subdivisions (1)-(13). Requiring a completed application prior to scheduling an examination ensures that only qualified, verified applicants enter the examination process, maintaining the integrity of the Board’s licensing standards.

Language was added directing applicants where to send the completed application, which includes the applicable fee required by CCR section 1948. These proposed provisions are necessary to ensure clear notice to the applicants of the acceptable methods of submission of applications and the associated application fee specified in CCR section 1948 and where or how to file their application and pay their fee. The regulation would specify that the fees and documents shall be submitted by hard copy (traditional paper method) at the Board’s current physical address listed on its website or through the Board’s online portal accessible through the Board’s website to ensure receipt and efficient processing of the application. Providing instructions on the methods to submit, and what is necessary to be considered a complete application enhances clarity by offering straightforward guidance, which helps avoid the submission of incomplete or ineligible applications, thereby reducing administrative delays and rejections. This subsection is also necessary to inform applicants what must be submitted to satisfy the Board’s exam eligibility requirements and provide a complete list of requirements in one convenient location for applicants.

*Adopt new subparagraphs (a)(1) - (a)(13)*

Purpose: Subparagraphs (a)(1) - (a)(13) set forth what information must be provided in a completed application, which includes:

- (1) Applicant’s full legal name (Last Name, First Name, and Middle Name).
- (2) Applicant’s date of birth (Month, Day, and Year).
- (3) Applicant’s Social Security Number or Individual Taxpayer Identification Number, which is authorized to be collected pursuant to sections 30 and 494.5 of the Code and Pub. L 94-455 (42 U.S.C.A. § 405(c)(2)(C)), and will be used exclusively for identification, tax enforcement purposes, or compliance with any judgment or order for family support in accordance with section 17520 of the Family Code.
- (4) Applicant’s residence address.
- (5) Applicant’s mailing address, if different from residence address.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 17 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

- (6) Applicant’s telephone number.
- (7) Applicant’s email address.
- (8) Whether the applicant has previously applied for the examination.
- (9) Whether the applicant is presently or was previously licensed with the board.
- (10) A disclosure regarding whether the applicant is requesting a reasonable accommodation pursuant to subdivision (b) of Government Code section 12944. If so, the applicant shall provide medical documentation consisting of a written document with the name, license number, telephone number, date and signature of a physician confirming the existence of the applicant’s disability or medical condition (as defined in Government Code section 12926) and the need for the reasonable accommodation.
- (11) A statement signed by the applicant under penalty of perjury that the information provided in the application for examination is true and correct.
- (12) A copy of the applicant’s acceptable government-issued photo identification.
- (13) Applicants for Branch 1, 2, or 3 operator licenses shall also submit satisfactory proof of completing the applicable courses required by section 8565.5 of the Code within the timeframe required by section 1934. “Satisfactory proof” shall mean a certificate of completion or other document signed and dated by an authorized representative of a continuing education provider approved by the board per section 1953, specifying that the applicant satisfactorily completed course(s) in the applicable subjects specified in section 8565.5 of the Code.

Rationale: The rationale for each item specified above follows, grouped by paragraph number and subject matter type.

Paragraphs (1)-(7), (12) Disclosure of Personally Identifying Information and Identification

Requiring the applicant’s personally identifying information (e.g., full legal name (Last Name, First Name and Middle Name), date of birth, Social Security Number/Taxpayer Identification Number, residence address, mailing address (only needed if different from residence address to avoid unnecessary and duplicative disclosures), telephone number, email address) ensures accurate applicant and application tracking by the Board and multiple means of contacting an applicant during the application process and investigation of their application. This information will also help the Board communicate with applicants more effectively, while also aiding in the prevention of fraud in the examination process and supporting enforcement of tax and family support obligations as required by law at BPC sections 30 and 494.5.

Notice of the rationale for collecting this information would be provided specifically cited in paragraph (3) to ensure advance notice to the applicant of the uses of their SSN or

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 18 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

ITIN. Collection of the SSN or ITIN is required to be collected pursuant to BPC section 30 and 494.5 of the Code and Pub. L 94-455 (42 U.S.C.A. § 405(c)(2)(C)), and will be used exclusively for identification, tax enforcement purposes or compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code.

Additionally, the Board is required pursuant to the provisions of BPC section 27 to allow applicants to provide an alternate mailing address in lieu of a residential address. However, a residence address is necessary to ensure that the Board may serve any applicant with legal process whenever necessary as part of any background investigation (e.g., service of a subpoena which is required by law to be served personally – see Gov. Code, § 11450.20 incorporating Code Civ. Proc., § 1987).

Similarly, requiring a copy of the applicant’s acceptable government issued photo identification in paragraph (12) (as defined in CCR 1940.1(c)) helps confirm identify and prevent fraud in the examination process and is consistent with U.S. EPA’s 40 CFR § 171.103(a)(2)(iii)’s examination standards for validating the identity of the applicant (Section 103(a)(2)(iii) requires “valid, government-issued photo identification or other form of similarly reliable identification” for certified applicator applicants). Identification from an official government source also helps ensure authenticity and reliability, thereby strengthening the Board’s identity verification process. Identification also ensures consistency in the applicant’s name across all official records, including government databases, background checks, and certifications. This reduces the risk of discrepancies or confusion that could be caused by name variations or nicknames.

Finally, the Board collects the SSN and ITIN as required by BPC sections 30, 31, 494.5 and Family Code section 17520 and for the purposes specified therein (including enforcement of tax and family support obligations). As a result, these items of information are also necessary to verify the applicant’s identity and eligibility in accordance with BPC sections 30, 31, 494.5, Family Code section 17520, and Pub. L-94-455 (43 U.S.C.A. §405(c)(2)(C) (for the SSN or ITIN), and ensure accuracy in the processing of the application.

**Paragraphs (8), (9) and (13) – Disclosure of Application and Licensure History with the Board and Satisfactory Proof of Completing Required Coursework**

Listing required information that must be provided (i.e., whether the applicant previously applied for examination, whether the applicant is presently or was previously licensed by the Board, and proof of completion of applicable courses by operator applicants in Branches 1, 2, or 3) enables the Board to confirm eligibility and educational prerequisites in a straightforward, documented process.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 19 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

The Board requests disclosure of their application and examination history to validate the identity of the applicant in the Board’s records and ensure that the applicant is using the correct application (since the re-examination application requirements are more abbreviated, see CCR section 1942). The Board also requests disclosures regarding whether the applicant is presently or was previously licensed by the Board to ensure that the applicant is applying for the correct license. In the Board’s experience, applicants are oftentimes confused about which category of licensure they need to take an exam for, and license history is one way the Board’s staff can flag any issues with the applicant applying to take an examination for the incorrect license type (e.g., the applicant already has a passed an exam for the license applied for). In addition, this information is necessary to effectively investigate the applicant’s qualifications, including determining whether there are any grounds for denial per BPC section 8568.

BPC section 8565.5 provides those applicants for Branch 1, 2, or 3 operator licenses shall demonstrate to the Board that he or she has passed applicable courses, including courses in (1) Pesticides, (2) Pest identification and biology, (3) Contract law, (4) Rules and regulations, and (5) Business practices. Further, CCR section 1934 states that courses required by 8565.5 must have been successfully completed within three years prior to the applicant taking the operator’s licensing examination.

Existing regulations do not specify what proof the Board requires to show satisfaction of the requirements in BPC section 8565.5 within the timeframe required by CCR section 1934. As a result, a definition for “satisfactory proof” is needed to avoid confusion for applicants since the terms are susceptible to more than one interpretation. In addition, such a definition helps ensure that the applicant provides the requisite documentary “proof” needed to establish passage of the courses consistent with commonly used documentary evidence from the Board’s approved providers (a certificate of completion or other document signed and dated by an authorized representative of a continuing education provider) to ensure reliability and authenticity of the documentation submitted with the application. Requiring that proof of completion be obtained from providers approved in accordance with CCR section 1953 ensures accuracy and accountability to the Board for the content of the coursework. These provisions specifying the course provider and certificate contents also provide additional assurances to the Board of course content completion as these educational providers may have their approvals withdrawn for failing to meet standards in accordance with CCR section 1953.

**Paragraph (10) – Disclosure of Need for Reasonable Accommodation and Associated Medical Documentation Required**

Government Code section 12944(b) provides, that: “It shall be unlawful for a licensing board to fail or refuse to make reasonable accommodation to an individual’s mental or physical disability or medical condition.” To meet this requirement in the Government Code and protect the integrity of the examination process, the Board proposes to

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 20 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

require that an applicant disclose whether they are requesting a reasonable accommodation pursuant to subdivision (b) of Government Code section 12944. This would allow the Board to identify those applicants requesting such an accommodation and to address such a documented need in compliance with Section 12944. Subsection (a)(10) further requires an applicant requesting such an accommodation to provide medical documentation consisting of a written document with the name, license number, telephone number, date and signature of a physician confirming the existence of the applicant’s disability or medical condition as defined in Government Code section 12926 and the need for the reasonable combination. This is the minimum the Board believes is necessary to document the existence of a disability as defined in Section 12926, and the reasonableness of the accommodation without undue burden to the applicant. By allowing applicants to request reasonable accommodations and providing clear requirements for documentation, the Board complies with Government Code section 12944, ensuring applicants with disabilities receive necessary support to access the examination on a more equitable basis.

Paragraph (11) – Declaration Under Penalty of Perjury

It is necessary to require an applicant to attest to the truth and correctness of the information made to the Board on any application. The Board relies upon applicants’ self-reported information in evaluating applications or other forms submitted for processing by the Board. This requirement helps ensure that the representations on the form are accurate, truthful and made in good faith. In addition, the certification under penalty of perjury helps ensure the reliability of the statements to the Board (since certifying under penalty of perjury can have a deterrent effect on those who may be considering not providing true, accurate or complete information), and provides the Board with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is not true, complete or accurate. [“The oath or declaration must be in such form that criminal sanctions of perjury might apply where material facts so declared to be true, are in fact not true or are not known to be true.” In re *Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [holding modified by *Laborde v. Aronson* (2001) 92 Cal.App.4th 459.]

Adopt new subsection (b)

**Purpose:** Subsection (b) outlines the approval notice process from the Board once the Board confirms the application for examination is complete in accordance with subsection (a), the applicant is qualified pursuant to BPC sections 8563, 8564, 8564.5 and 8565, and the appropriate examination fee is paid as required by subsection (a). Notice of approval would include a written approval notice to the examination vendor, PSI Services LLC (PSI), and to the applicant from the Board by email or, if an email address is not provided by the applicant, by United States Postal Service to the mailing address the applicant provided in their application for examination.

<p><b>Structural Pest Control Board</b> 16 CCR 1940, 1940.1, 1941, and 1942</p>	<p><b>Initial Statement of Reasons</b> Examinations</p>	<p><b>Page 21 of 33</b> December 18, 2025</p>
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**Rationale:** This proposal is necessary to ensure consistency in the Board’s processes for administering exams and ensure accurate notice to applicants of the steps required to be completed prior to issuance of an exam approval notice. Before scheduling an exam, the Board’s verification of a completed application (as specified in subsection (a)), qualifications (as specified in BPC sections 8563, 8564, 8564.5 and 8565), and payment of the appropriate examination fee (as specified in subsection (a)) helps maintain an organized and efficient process by confirming that only eligible applicants proceed to the examination. PSI Services LLC (PSI) is the examination administrator currently under contract with the Board and tasked to provide these examinations to applicant candidates. Sending an approval notice directly to both the applicant and PSI provides clear communication channels, which helps applicants understand next steps and reduces potential miscommunication or misunderstanding. Specifying the type of notice (“written”) and the varying methods for delivery (by mail or email to the addresses noted above, as applicable) helps ensure advance notice of the Board’s processes for notifying all parties about the applicant’s eligibility.

**Adopt new subparagraphs (b)(1) - (b)(3)**

**Purpose:** Add subparagraphs (b)(1) - (b)(3), which indicates what information the approval notice will contain and what applicants must do after receiving their approval notice.

Paragraph (1) would specify the requirements the contact information for the applicant to schedule the examination with PSI including PSI’s website address, e-mail address, telephone number and mailing address and further specify that the applicant is responsible for complying with the scheduling and appearance requirements of paragraphs (2) and (3). It would also specify that the failure to appear for the examination is grounds for forfeiture of the exam fee unless the applicant requests and is granted a postponement as specified in CCR section 1941.

Paragraph (2) specifies that an applicant shall contact PSI to schedule an examination date, time and site location. Paragraph (3) requires an applicant to appear at the designated PSI examination site location at their scheduled date and time, and the present their acceptable government-issued photo identification at the time of examination (to be defined in subsection (c) of this proposal).

**Rationale:** This proposal is necessary to establish the process for an applicant to receive notice of, and take, the Board’s examinations specified in Section 1940. This proposed subsection and accompanying paragraphs describe the necessary written information for the Board to provide an applicant in order for them to understand the Board’s examination admission requirements and comply with the Board’s examination procedures. Additionally, identifying what information can be expected in the approval notice and outlining applicants’ responsibilities to contact PSI to schedule their exam

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 22 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

and appear at the designated date, time, and location and provide acceptable identification helps eliminate confusion and compliance issues.

*Paragraph (1) Approval Notice Contents*

These notice requirements include: the website address, e-mail address, telephone number, and mailing address of PSI, specificity regarding the applicant’s compliance obligations (per paragraphs (2) and (3) of subsection (b) of this section), notice that the failure to appear for the examination is grounds for forfeiture of the exam fee unless the applicant requests and is granted a postponement as specified in CCR section 1941. These requirements are necessary to ensure an applicant has notice and an understanding of their responsibilities in the examination process, thereby avoiding application deficiencies that can result in processing delays. To ensure that applicants are also made aware of possible consequences for failure to appear and opportunities to request a postponement, this regulation would include notice that failure to appear for the exam is grounds for forfeiture of the examination fee “unless the applicant requests and is granted a postponement in accordance with section 1941.”

CCR section 1941 provides, in part, that “[f]ailure of an applicant to appear for an operator’s or field representative’s examination after proper notification thereof shall be grounds for forfeiture of the examination fee, unless the applicant requests and is granted a postponement not less than five days prior to such examination...” and providing the grounds for excusing the failure or granting a postponement of not more than six months. Cross-referencing to this provision ensures consistency in how the Board would consider a fee forfeit under these circumstances and provides notice to applicants of the consequences for failing to appear and the opportunities for excuse or postponement in accordance with CCR section 1941. Informing applicants about potential fee forfeiture for missed exams incentivizes attendance, helps the Board manage examination scheduling effectively, and ensures cost recovery for services administered.

*Paragraph (2) Applicant Responsibilities for Contacting PSI*

The Board proposes to add this paragraph to provide applicants notice of the process of scheduling the examination (test date, time and site location) for applicants deemed qualified to take the applicable examination according to this section. These requirements also enable applicants to engage directly with PSI, while understanding their responsibilities, and thereby ensuring a more streamlined examination process.

*Paragraph (3) Applicant responsibilities to Appear and Present Acceptable Identification*

The Board proposes to add this paragraph to provide applicants notice of the process for taking their examination, which includes appearing at the designated PSI

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 23 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

examination site location at their scheduled date and time and presenting their acceptable government-issued photo identification at the time of examination. Requirements for proof of commonly accepted government-issued identification (as discussed below in subsection (c)) help ensure accuracy and avoid exam subversion in the examination admissions process.

Adopt new subsection (c) and (c)(1) – (c)(7)

Purpose: Subsection (c) defines the meaning of the term “acceptable government-issued identification” for the purposes of this section and (c)(1) – (c)(7) outlines the acceptable forms of unexpired government-issued photo identification as follows:

- (1) Unexpired driver’s license or identification card issued by a U.S. state or territory,
- (2) Unexpired United States military identification card including active duty, retiree, or reservist military identification card (DD Form 2 or 2 A),
- (3) Unexpired United States-issued passport card,
- (4) Unexpired Passport from any other country,
- (5) Unexpired United States-issued Permanent Resident Card (Form I-551),
- (6) Unexpired Mexican Consulate identification card, or,
- (7) Unexpired United States-issued Employment Authorization Card (EAD/Form I-766).

Rationale: Confirming the identity of an examinee is required to protect the integrity of the examination since identification helps avoid fraud in the examination process and helps the Board investigate attempts to subvert the examination through identification of the participants in the examination process. Providing a complete list of what would be acceptable forms of identification avoids confusion for examinees, the Board, and test administration personnel. To provide notice of and give as much opportunity as possible to meet this requirement, the Board lists 7 different types of commonly accepted government-issued documents that establish proof of identity with photographic identification. This list has been widely used by the Board’s examination vendor as a method of accurately identifying examinees and its adoption in regulation assures that the Board retains consistency in implementation across all the Board’s examinations.

In addition, since the applicant’s name, personal information and photo would have been validated by a federal, state or government entity and all are required to be “unexpired,” the Board believes these various types of identification provide some assurances of authenticity and are reliable methods of identifying examination candidates. Therefore, these various identification documents meet the Board’s

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 24 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

admission requirements and standards for verifying applicant identity for examination purposes.

- **Amend CCR section 1941 and its title.**

Amend title “Failure to Appear for Operator’s or Field Representative’s Examinations.”

Purpose: Amend the title of this section from “Failure to Appear for Operator’s or Field Representative’s Examinations.” to “Failure to Appear for an Examination.”

Rationale: This change broadens the scope to encompass all examination types specified in section 1940, including applicators, making the regulation consistent across license types. Historically, the Board only licensed field representatives and operators. When the Board began licensing applicators in 1996, necessary changes were not made to all pertinent regulations to ensure inclusion of the applicator license type. This title would more accurately cover all examination types currently administered by the Board.

Amend introductory paragraph

Purpose: Remove reference to operator’s or field representative’s and add cross-reference to CCR sections 1940 and 1940.1.

Rationale: Removing references to the terms “operator’s or field representative’s” and adding that the regulation applies to an examination “specified in section 1940” broadens the scope of this regulation to encompass all Board examination types to ensure consistency in administration across all examinations offered. Including cross reference to CCR section 1940, which outlines the examination standards for the Board’s three different license types, provides clarity as to which examinations apply to this section. The revised language also avoids ambiguity as to what type of application this regulation applies to by specifying it is an application “for examination prescribed in section 1940.1.” This change would more clearly specify its applicability to all Board examinations, ensuring consistency with new regulations adopted in this proposal, and providing applicants with clearer notice and guidance on examination scheduling and forfeiture rules. As noted above in the rationale for adopting CCR section 1940.1(b)(1), informing applicants about potential fee forfeiture for missed exams incentivizes attendance, helps the Board manage examination scheduling effectively, and ensures cost recovery for services administered.

- **Amend CCR section 1942 and its title.**

Amend title “Applicant Failing Operator’s or Field Representative’s Examination”

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 25 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

Purpose: The title of this section is changed from “Applicant Failing Operator’s or Field Representative’s Examination” to “Application for Re-Examination”

Rationale: This change broadens the scope to include all examination types specified in section 1940, such as applicators, making the regulation consistent across license types. Historically, the Board only licensed field representatives and operators. When the Board began licensing applicators, necessary changes were not made to all of the regulations to ensure inclusion of the applicator license type.

Amend subsection (a)

Purpose: To repeal references to “fails the operator’s or field representative’s examination and replace it with “does not pass an” examination “specified in section 1940.” The proposal would also repeal the existing timing limitation for applicants re-taking an examination “within six (6) months thereafter” they have taken a prior exam and repeal “on the same” application references, and instead specifies that an applicant may “request to” take another examination “by submitting” an application “for examination to the board accompanied by such statements and documents as required by this subsection.

This subsection would also specify the methods for submitting the application to the Board (hard copy to the Board’s current physical address or electronically through the Board’s online portal accessible through the Board’s website). This section would also specify that a completed application would include the application fee required by CCR Section 1948 and the information that follows in paragraphs (1)-(6).

Rationale: For consistency with CCR section 1940 (which uses the term “pass), the Board replaces the term “fails” with “does not pass” for greater notice and understanding of the standards used for its examinations. For grammatical reasons and for improved readability, the Board would also strike “on the same” and add “request” after “may” so the sentence would read, in part: “An applicant who does not pass an examination specified in section 1940 may request to take another examination....”

The amendment also removes the outdated six-month limitation period that the Board no longer uses, allowing applicants to retake exams when they are adequately prepared and on a rolling basis. This approach supports applicant success while maintaining the Board’s exam integrity and licensing standards.

Existing regulation at CCR section 1942 currently requires the following:

“An applicant who fails the operator’s or field representative’s examination may take another examination within six (6) months thereafter on the same application by paying an additional examination fee.”

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 26 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

As noted above, historically, the Board only licensed field representatives and operators. When the Board began licensing applicators, necessary changes were not made to all the regulations to ensure inclusion of the applicator license type. The current regulation neither covers all exams administered by the Board nor clearly outlines the process for requesting to retake an examination. This proposal addresses these gaps by requiring a formal “application for re-examination” that includes updated applicant information, supporting documentation, and payment of the applicable fee. This ensures the Board receives complete and accurate information necessary to verify eligibility, schedule examinations, and maintain proper records for all exam types identified in proposed CCR section 1940.

In addition, the regulation would clarify and modernize the process for applicants seeking to retake an examination after failing any examination specified in section 1940. The amendment updates the submission requirements for re-examination applications, allowing applicants to submit materials either in hard copy to the Board’s current address or electronically through the Board’s online portal.

The proposal specifies where and how re-examination applications must be submitted, either in hard copy to the Board’s current physical address or electronically through the Board’s online portal. Providing clear submission instructions enhances transparency and accessibility for applicants, minimizes incomplete or misdirected submissions, and supports the Board’s modernization and online licensing initiatives.

*Adopt new subparagraphs (a)(1) – (a)(6)*

Purpose: Subparagraphs (a)(1) through (a)(6) identify the information required for a completed application for re-examination, including:

- (1) Applicant’s full legal name (Last Name, First Name, and Middle Name).
- (2) Applicant’s Examination ID Number.
- (3) Applicant’s current mailing address.
- (4) Applicant’s telephone number.
- (5) Applicant’s email address.
- (6) A statement signed by the applicant under penalty of perjury that the information provided in the application for examination is true and correct

Rationale: Collecting an applicant’s full legal name, examination ID number, current mailing address, telephone number, email address, ensures applicants provide accurate and current personal and contact information to verify their identities and allow effective communication with the applicant if there are any issues with the application or examination. These requirements improve applicant identification, maintain record accuracy, and promote accountability in the examination process.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 27 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

A signed statement under penalty of perjury ensures that the Board receives accurate and verifiable information necessary to process re-examination requests. Requiring a signed declaration under penalty of perjury also deters falsification and reinforces the integrity of the licensing process. These data elements enhance efficiency, reduce processing errors, and ensure compliance with existing recordkeeping and verification standards. This requirement also provides the Board with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is not true, complete or accurate (See related rationale for similar applicant information requirements proposed in CCR Section 1940.1, subparagraphs (a)(1), (a)(5), (a)(6), (a)(7) and (a)(11).)

Adopt new subsection (b)

Purpose: Subsection (b) establishes the process for notifying both the examination vendor, PSI, and the applicant once the Board approves an application for re-examination, which includes written notice sent by the Board by email or, if an email address is not provided by the applicant, by United States Postal Service to the mailing address the applicant provided in their application for re-examination.

Rationale: This subsection formalizes the Board’s procedure for communicating re-examination approval to ensure timely coordination between the Board, its examination vendor (PSI), and the applicant. Requiring the Board to send written notification to both parties provides a clear record of approval and ensures the applicant receives official confirmation with instructions on how to proceed with scheduling their examination.

By specifying that notifications are sent by email, or by mail if no email address is provided, the regulation ensures effective and reliable communication through modern and accessible methods. This promotes transparency, reduces confusion or delays in the scheduling process, and aligns with the Board’s current operational practices. (See related rationale for similar notification requirements proposed in subsection (b) of CCR Section 1940.1.)

Adopt new subparagraphs (b)(1) – (b)(3)

Purpose: Subparagraphs (b)(1) through (b)(3) specify the information that must be included in the Board’s re-examination approval notice and outline the applicant’s responsibilities after receiving that notice. Paragraph (1) would specify the requirements the contact information for the applicant to schedule the examination with PSI including PSI’s website address, e-mail address, telephone number and mailing address and further specify that the applicant is responsible for complying with the scheduling and appearance requirements of paragraphs (2) and (3). It would also specify that the failure to appear for the examination is grounds for forfeiture of the exam fee unless the

applicant requests and is granted a postponement in accordance with CCR section 1941.

Paragraph (2) specifies that an applicant shall contact PSI to schedule an examination date, time and site location. Paragraph (3) requires an applicant to appear at the designated PSI examination site location at their scheduled date and time, and the present their acceptable government-issued photo identification at the time of examination (defined by cross-referencing to the definition in CCR section 1940.1 for “acceptable government-issued photo identification”).

Rationale: These provisions ensure applicants receive clear instructions on scheduling, attendance, and identification requirements for their re-examination. The Board hereby incorporates the rationale for the additions of these paragraphs set forth above for CCR section 1940.1(b)(1)-(3), since the language proposed in these paragraphs is identical.

These amendments clarify and provide advance notice of what information the Board will provide in the re-examination approval notice and what actions applicants must take to complete the scheduling and examination process. Specifying that the notice will include PSI’s contact information, applicant responsibilities, and the potential forfeiture of the examination fee for missed appointments promotes accountability and reduces misunderstandings about the examination process.

Requiring applicants to contact PSI directly to schedule their examination and to appear at the designated site with acceptable government-issued photo identification ensures that examination procedures remain standardized, secure, and verifiable. These provisions help maintain the integrity of the Board’s licensing examinations, improve coordination with the examination vendor, and support fair and efficient administration of the examination process. (See related rationale for similar provisions proposed in Section 1940.1, subparagraphs (b)(1) through (b)(3).)

Finally, the Board provides a definition for “acceptable government-issued identification” by cross-referencing to the definition provided in CCR section 1940.1 for consistency in interpretation of the same standards across the Board’s regulations. As noted in the rationale for CCR section 1940.1 for this definition, requiring identification from an official government source (U.S. state, district or territory, or other country) helps ensure authenticity and reliability, thereby strengthening the Board’s identity verification process. Identification also ensures consistency in the applicant’s name across all official records, including government databases, background checks, and certifications. This reduces the risk of discrepancies or confusion that could be caused by name variations or nicknames.

## **UNDERLYING DATA**

1. August 26, 2024, Board Meeting Minutes, Agenda, and Relevant Meeting Materials.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 29 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

2. March 12, 2025, Board Meeting Minutes, Agenda, and Relevant Meeting Materials.
3. October 1, 2025, Draft Board Meeting Minutes, Agenda, and Relevant Meeting Materials.
4. Title 40 CFR Part 171, 40 CFR section 171.303 (federal requirements for State certification plans).
5. DCA Departmental Licensure Examination Validation Policy (OPES 22-01), issue date November 23, 2022.
6. Environmental Protection Agency. (Wednesday, January 4, 2017). *Federal Register / Vol. 82, No. 2; Pesticides; Certification of Pesticide Applicators (40 CFR Part 171)*. Federal Register.
7. Environmental Protection Agency. (Friday, June 2, 2017). *Federal Register / Vol. 82, No. 105; Pesticides; Certification of Pesticide Applicators (40 CFR Part 171)*. Federal Register.
8. Occupational Analysis of the Branch 1 Operator Profession, dated August 2019
9. Occupational Analysis of the Branch 2 Operator Profession, dated July 2025
10. Occupational Analysis of the Branch 3 Operator Profession, dated August 2017
11. Occupational Analysis of the Branch 1 Field Representative Profession, dated August 2019
12. Occupational Analysis of the Branch 2 Field Representative Profession, dated July 2025
13. Occupational Analysis of the Branch 3 Field Representative Profession, dated January 2017
14. Occupational Analysis of the Applicator Profession Memorandum from the Chief of the Office of Professional Examination Services, dated March 9, 2023
15. Three Party Memorandum of Understanding on Pesticide Episodic Reporting, Investigation, and Enforcement in the State of California executed by the U.S. Environmental Protection Agency, California Department of Pesticide Regulation, and California Agricultural Commissioners and Sealers Association, effective December 13, 2024

## BUSINESS IMPACT

The Board has made the initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

This Board already administers all examinations required for licensure. The proposed regulations do not establish new testing requirements or impose new obligations on businesses; rather, they codify existing examination practices, procedures, and standards into regulation for consistency and transparency. License applicants are

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 30 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

already required to meet these examination requirements as a condition of licensure. Therefore, no additional costs or burdens will be incurred by businesses or licensees as a result of this rulemaking.

Based on the recent fiscal year data, the Board receives approximately 10,000 initial and reexamination applications annually. The examination standards and application requirements reflected in these regulations are consistent with the standards the Board has historically applied to all examination applicants. As a result, the proposed regulations do not impose any new or additional requirements beyond current practice and will have no change in business impact to applicants or the State.

Additionally, the amendments to these regulatory sections clarify existing procedures and policies rather than establish new standards. The Board already follows these procedures and communicates these requirements to applicants as part of its current examination and licensing process.

## ECONOMIC IMPACT ASSESSMENT

This regulatory proposal is necessary to align the Board’s examination and certification requirements with federal regulations under 40 CFR Part 171. The Board determined that this proposal will have the following effects:

- **Creation or Elimination of Jobs in California:** The proposal will not result in the creation or elimination of jobs within the State of California. The Board’s license examinations already meet the federal standards; these regulations simply codify existing practices to ensure consistency with 40 CFR Part 171, as applicable. Other proposed examination requirements only establish clarity with the exam application process and requirements, and are, therefore, not creating any new procedures or policy. Examination applicants are already following the processes and requirements that are being added for clarity and consistency purposes.
- **Creation or Elimination of Existing Businesses:** The proposal will not result in the creation or elimination of existing businesses within the State. The Board already administers examinations and certifications for certified applicators consistent with the federal standards. The proposed regulations do not add new requirements for business operations, only establish clarity with the exam application process and requirements, and are, therefore, not creating any new procedures or policy. Examination applicants are already following the processes and requirements that are being added for clarity and consistency purposes.
- **Expansion of Existing Businesses:** The proposal will not affect the expansion of businesses currently doing business within the State of California because it

Structural Pest Control Board	Initial Statement of Reasons	Page 31 of 33
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

does not change any existing business obligations or introduce new compliance costs.

- **Benefits to Health and Welfare of California residents, Worker Safety, and the State’s Environment:** The proposed regulations will benefit the health and welfare of California residents, certified applicators, and the environment by ensuring examination and certification standards are consistent with the federal framework for the safe use of restricted-use pesticides (RUPs).

The proposal meets the minimum federal standards, helping reduce improper applications and accidental exposures. Certified commercial applicators (field representatives and operators) will be better prepared to follow pesticide labeling and California laws, ensuring safe and lawful use of RUPs.

Absent this proposal, California’s certification and examination requirements would not be fully aligned with the updated federal standards, potentially creating regulatory inconsistencies and undermining statewide compliance with 40 CFR Part 171.

The Board also anticipates that the updated regulations will serve as a more effective tool for the Board, examination applicants, licensees, and the public by providing a clear and comprehensive overview of the Board’s examinations and related procedures. These changes are designed to better protect California consumers by confirming that examinations meet minimum competency standards for licensure and by ensuring consistency and fairness in the Board’s examination processes.

## **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

The proposed regulation does not mandate the use of any specific technologies or equipment.

## **CONSIDERATION OF ALTERNATIVES**

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

No such alternatives have been proposed; however, the Board welcomes comments from the public.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 32 of 33</b>
16 CCR 1940, 1940.1, 1941, and 1942	Examinations	December 18, 2025

**Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:**

No such alternatives have been proposed; however, the Board welcomes comments from the public.

<b>Structural Pest Control Board</b>	<b>Initial Statement of Reasons</b>	<b>Page 33 of 33</b>
<b>16 CCR 1940, 1940.1, 1941, and 1942</b>	Examinations	December 18, 2025