

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS, AND GEOLOGISTS**

**INITIAL STATEMENT OF REASONS CONCERNING
AMENDMENT OF REGULATIONS REGARDING ASBOG EXAMINATION FEES,
ABANDONED APPLICATIONS, POSTPONEMENTS, AND EXAMINATIONS**

Hearing Date: No Hearing Scheduled

Subject Matter of Proposed Regulations: ASBOG Examination Fees, Abandoned Applications, Postponements, and Examinations

Authority cited: Business and Professions Code (BPC) Sections 7818 and 7887.

References cited: BPC Sections 158, 7818, 7822, 7841, 7841.1, 7841.2, 7842, 7844, 7851, 7880, 7881, and 7887.

Sections Affected: Title 16, California Code of Regulations (CCR) sections 3005 (Fees), 3024 (Abandoned Applications), 3024.5 (Postponements), 3026 (Unqualified Applicant: Refund of Examination Fee), and 3031 (Examinations: Geologist-in-Training, Professional Geologist, Professional Geophysicist and Specialty Certification).

Introduction and Problem Statement:

The Department of Consumer Affairs, Board for Professional Engineers, Land Surveyors, and Geologists (Board) promotes standards for competence and integrity through licensing and regulating the Board's professions. The Board issues licenses to Professional Engineers, Professional Land Surveyors, Professional Geologists, and Professional Geophysicists. The current examination system for Professional Geologists includes the national Fundamentals of Geology (FG) and Practice of Geology (PG) examinations that are administered through the Association of State Boards of Geology (ASBOG). Applicants start with submitting a completed application and submits this form along with the application fee to the Board. The Board then approves or denies the applicant to sit for one or both examinations.

The examinations through ASBOG for the national Fundamentals of Geology (FG) and Practice of Geology (PG) examinations are currently pencil and paper examinations, and the examination fees are collected by the Board and then paid to ASBOG. The examination will transition to a computer-based testing (CBT) format with the Spring 2023 administration, and, at that time, applicants will register directly with ASBOG and

pay the examination fees directly to ASBOG. The Board will no longer be involved in collecting the examination fees and passing them on to ASBOG.

To implement the change in examination administration, the Board proposes to amend Title 16, California Code of Regulations (16 CCR) sections 3005, 3024, 3031; add Title 16, California Code of Regulations (16 CCR) section 3024.5; and repeal Title 16, California Code of Regulations (16 CCR) section 3026 related to examination fees, abandoned applications, postponements, and examinations.

16 CCR 3005 needs to be amended to remove the references to the examination fees for the Fundamentals of Geology (FG) and Practice of Geology (PG) national examinations. Additionally, 16 CCR 3024 needs to be amended so that it only addresses when an application will be considered abandoned, rather than combining conditions for abandonment with conditions for postponements. A new section, 16 CCR 3024.5, is proposed to be adopted to address postponements.

Furthermore, 16 CCR 3026 needs to be repealed because the Board will no longer be collecting the examination fees for ASBOG examinations, and the applicants will not pay the examination fees for the state-specific examinations until after it has been determined that they meet the qualifications required for licensure other than passing the examinations. As such, this regulation needs to be repealed to avoid confusion for applicants and licensees.

Additionally, 16 CCR 3031 is being amended to clarify which examinations must be passed for certification or licensure as required by the Business and Professions Code, what entity will administer the national examinations, and to whom the fees for the national examinations are to be paid.

Anticipated Benefits from this Regulatory Action:

Amending 16 CCR sections 3005, 3024, and 3031, adding 16 CCR section 3024.5, and repealing 16 CCR 3026 will remove any confusion caused by the existence of regulations that address processes that are no longer relevant. Amending 16 CCR 3005 to remove references to the examination fees for the FG and PG examinations will clarify that those fees will no longer be under the Board’s authority to establish or receive, since they will be paid directly to ASBOG. Additionally, the amendments made to 16 CCR section 3031 will clarify which examinations must be passed, what entity will administer the national examinations, and to whom the national examinations fees are to be paid.

Additionally, state-specific examination fees that will continue to be paid to the Board will not be charged until the applicant is deemed to be qualified. Therefore, 16 CCR section 3026 needs to be repealed to remove any confusion that might be caused by referencing of refund of fees that have not yet been paid.

The current language in 16 CCR section 3024 regarding abandoned applications may be confusing because it is written together with the provisions regarding postponements of examinations. Postponements of examinations and abandoned applications should be separated into two different regulations to make it clear that postponements of examinations and abandoned applications are two separate processes. As such, it is proposed to amend 16 CCR section 3024 so that it addresses only abandoned applications and to add 16 CCR section 3024.5 to address postponements of examinations.

Indicating the circumstances in which an application will be considered abandoned, and a new application must be submitted, will provide guidance to applicants so that they fully understand the consequences of not completing the licensure process in a timely manner. Furthermore, providing situations in which a postponement of the examination will be granted will help applicants know when they can postpone taking the examination without further consequences. Therefore, the proposed changes to these sections will benefit examinees by clarifying these regulations. Further, by updating these sections, the public will be better protected as applicants for licensure will be examined via the most up-to-date method, without outdated references remaining in the Board's regulations.

Specific Purpose of Each Adoption, Amendment, or Repeal:

I. Changes Throughout

- a. To accommodate the restructuring of regulatory subdivisions, a number of subdivisions have been renumbered or re-lettered.

This change is needed for formatting purposes in the different sections and subdivisions to maintain consistent subdivision organization.

- b. Several changes have been made to the syntax of the regulatory language, including changes such as the adding of a comma. A comma is inserted after "the Practice of Geology Examination" in proposed section 3031 at subdivision (b)(2). A comma is deleted after "specialty" in proposed section 3031 at proposed subdivision (c). Finally, a comma is added in the Reference section of the Note for proposed section 3031

after “7842.”

These changes are necessary to ensure the regulations are grammatically correct.

II. Amend Section 3005. Fees

- a. In subdivision (b)(1), delete the language “The Practice of Geology national examination \$250.”

As noted in the problem statement section of this Initial Statement of Reasons, beginning in Spring 2023, the PG examination will be administered by ASBOG via CBT. The applicants will register directly with ASBOG and pay the examination fee directly to ASBOG. The Board will no longer be involved in collecting the examination fee and passing it on to ASBOG. In addition, the examination fee is established by ASBOG. For these reasons, listing a fee payable to the Board in the regulations is not appropriate. As such, this subdivision is being deleted.

- b. Delete “(2)” from existing subdivision (b)(2).

This change is made to move up all the remaining subdivisions after the deletion of the fee for the Practice of Geology national examination described above.

- c. Delete current subdivision (b)(3), reading “(3) The Fundamentals of Geology national examination \$200.

As noted in the problem statement section of this Initial Statement of Reasons, beginning in Spring 2023, the FG examination will be administered by ASBOG via CBT. The applicants will register directly with ASBOG and pay the examination fee directly to ASBOG. The Board will no longer be involved in collecting the examination fee and passing it on to ASBOG. In addition, the examination fee is established by ASBOG. For these reasons, listing a fee payable to the Board in the regulations is not appropriate. As such, this subdivision is being deleted.

- d. Renumber existing subdivisions (4) and (5) to (2) and (3). This is done to accommodate the deletion of existing subdivisions (3) and (1).
- e. Add “7844,” to the regulation’s reference note.

The addition of this section is needed so that applicants are aware of the Geologist and Geophysicist Act section regarding examinations in general. The primary focus of this section is to highlight the scope of examinations and the methods of procedure may be prescribed by rule of the Board, how the Board may make arrangements with a public or private organization to conduct the examinations, and that the Board may authorize an organization specified by the Board to receive directly from applicants payments of the examination fees charged by that organization.

III. Amend Section 3024. Abandoned Applications

- a. Repeal existing subdivisions (a) and (a)(1) through (a)(3), and subdivisions (c) and replace them with new subdivision (a), including subdivisions (a)(1) through (a)(3) and new subdivision (b).

These subdivisions are being repealed and replaced to provide better clarity regarding the circumstances under which an application will be considered abandoned. (See specific explanations below regarding new subdivisions being added.)

- b. Repeal existing subdivisions (b) and (d), including subdivision (d)(1) through (d)(3).

These subdivisions are being repealed because they address postponement of examinations and do not apply to abandoned applications.

- c. Add new subdivision (a) to read “Any of the following actions by an applicant for certification or licensure shall be considered to constitute abandonment of the application with no refund of the application fee:”

This change is added to provide more clarity to applicants on what would constitute abandonment of an application with no refund of the application fee. The Board is making this change to conform the standard with current regulations affecting Professional Engineers and Professional Land Surveyors at 16 CCR Section 428. Adopting a consistent standard will also provide consistency to staff workload as they review applications by allowing staff to use a single set of evaluation criteria across multiple applicant types.

- d. Add new subdivision (a)(1) to read “(1) Failure to provide additional information pursuant to Section 3022.2 within 90 days from the date of a written request by the Board’s staff; or,”

This change is added to provide more clarity to applicants on what would constitute abandonment of an application with no refund of the application fee. As noted above, this change is modeled after the existing regulation at 16 CCR section 428(a) regarding Professional Engineers and Professional Land Surveyors. This will also provide consistency to staff workload as they review applications by allowing them to apply a single set of common criteria across multiple application types.

The Board believes adopting the same standard is appropriate because Board staff has, in their experience, found that 90 days is a sufficient length of time to allow for follow-up with applicants where additional information is required. Further, adopting a written request standard ensures applicants receive a copy of the request that can be referred back to in further communications with the Board.

- e. Add new subdivision (a)(2) to read “(2) Failure to complete the examination(s) to which the applicant has been assigned within two (2) years from the date of filing of the application; or,”

This change is added to provide more clarity to applicants on what would constitute abandonment of an application with no refund of the application fee. As noted above, this change is modeled after the existing regulation at 16 CCR section 428(b) regarding Professional Engineers and Professional Land Surveyors. This will also provide consistency to staff workload when reviewing applications by allowing them to apply a single set of common criteria across multiple application types.

In addition to following an existing standard, the Board believes two years from the date of the filing of the application is the maximum amount of time allowable before it becomes unclear whether the applicant remains knowledgeable enough or involved enough in the licensure process to warrant licensure. After two years, concerns about fitness to practice and currency of knowledge justify considering the application abandoned.

- f. Add new subdivision (a)(3) to read “(3) Failure to appear for the examination(s) at the designated time and place unless a postponement has been obtained in accordance with Section 3024.5; or,”

This subdivision is added to provide more clarity to applicants on what would constitute abandonment of an application with no refund of the application fee. Section 3024.5 is added so applicants are aware of the conditions in which an examination will be considered for postponements.

As noted above, this change is modeled after the existing regulation at 16 CCR section 428(c) regarding Professional Engineers and Professional Land Surveyors. This language also replaces preexisting subdivision (d) regarding postponements.

The new language clarifies that failing to appear for an examination also refers to failure to appear at a designated time and place, communicating to applicants the standard requires actual presence at the examination. In its new context, this provision is also linked to an applicant receiving no refund, as opposed to a partial refund in the preexisting language. This is being done to model after existing regulations at 16 CCR section 428 regarding Professional Engineers and Professional Land Surveyors. This will also provide consistency to staff workload when reviewing applications by allowing them to apply a single set of common criteria across multiple application types. The change to a no-refund policy also reflects the fact that examination fees will no longer be paid to the Board. As such, no refund can be issued by the Board since the Board will no longer be collecting the fees.

- g. Add new subdivision (a)(4) to read “(4) Failure to appear for the examination(s) at the designated time and place after having obtained two postponements in accordance with Section 3024.5.”

This change is added to provide more clarity to applicants on what would constitute abandonment of an application with no refund of the application fee. As noted above, this change is modeled after the existing regulation at 16 CCR section 428(d) regarding Professional Engineers and Professional Land Surveyors, which allows only two postponements before an application is considered abandoned.

The provision to allow only two postponements was included in 16 CCR section 428 when it was first adopted by the Board approximately 60 years ago and that allowance has remained unchanged since that time. When the Board assumed responsibility for the former Board for Geologists and Geophysicists (BGG) in 2009, it was decided that regulations would be updated as business process needs dictated so that the processes would be the same across all license types (professional engineers, land surveyors, geologists, and geophysicists). There is no justification to apply a different standard, or different number of postponements, to certain license types (specifically, professional geologists and geophysicists) than has been in place for other license types (professional engineers and land surveyors) for approximately 60 years. This will also provide consistency to staff workload when reviewing applications by

allowing them to apply a single set of common criteria across multiple application types.

- h. Add new subdivision (b) to read “(b) An application submitted subsequent to an abandoned application shall be treated as a new application.”

This change is added to provide more clarity to applicants on what would constitute abandonment of an application with no refund of the application fee. The Board believes treating an application submitted subsequent to an abandoned application as new is appropriate to make efficient use of Board resources. Maintaining consistent files between abandoned and subsequent applications would require checking to make sure all the previously submitted information was still relevant and accurate. Confusion may arise in where in the review process the application was when the subsequent application is submitted. Further, treating the subsequent application as new allows the applicant further access to postponement provisions and maximum delay timelines under the proposed regulations. Without treating the subsequent applications as new, it would be unclear how much time should be allowed to elapse between the application and the completion of the other prerequisites.

- i. Amend the existing Note to delete a Reference citation to Business and Professions Code section 7818 and to add Reference citations to sections 7841.2, 7842, and 7844.

Section 7818 is deleted because it is not a section that is being implemented or interpreted by this regulation; it is the statute that provides the Board the authority to adopt regulations and is properly cited in the Note as the Authority. Sections 7841.2, 7842, and 7844 are added to the reference citations to communicate that the sections are being implemented by this regulation. Section 7841.2 describes the preconditions of applying for a certification as a geologist-in-training. Section 7842 outlines requirements for certification in a specialty in geology. Section 7844 states examinations shall be held at times and places and in a scope and method of procedure as determined by the Board. Section 7844 also permits the Board to make arrangement with another organization to conduct the examination and to receive payment of examination fees.

IV. Add Section 3024.5. Postponements

- a. Add new subdivision (a) to read “(a) The executive officer may grant a postponement, not to exceed two such postponements for each

application, to any applicant who for reasonable cause is prevented from appearing for examination at the day or time fixed, provided the applicant's request for postponement and the written request and reason therefor is filed with the principal office of the board specified in Section 3000 at any time prior to the examination or within the ten (10) day period immediately following the date of such examination."

This subdivision is added because it is necessary to clarify under what circumstances an applicant may request and be granted a postponement of an examination because there can be confusion around the maximum allowable number of postponements when an applicant can request a postponement if it is not stated in this regulation.

The Board believes that not exceeding two postponements is reasonable for applicants when a postponement is necessary that will prevent them from appearing for an examination. This change is modeled after the existing regulation at 16 CCR section 446 regarding professional engineers and professional land surveyors, which allows only two postponements to be granted. The provision to allow only two postponements was included in 16 CCR section 446 when it was first adopted by the Board approximately 60 years ago and that allowance has remained unchanged since that time. When the Board assumed responsibility for the former Board for Geologists and Geophysicists (BGG) in 2009, it was decided that regulations would be updated as business process needs dictated so that the processes would be the same across all license types (professional engineers, land surveyors, geologists, and geophysicists). There is no justification to apply a different standard, or different number of postponements, to certain license types (specifically, professional geologists and geophysicists) than has been in place for other license types (professional engineers and land surveyors) for approximately 60 years. This will also provide consistency to staff workload when reviewing applications by allowing them to apply a single set of common criteria across multiple application types.

The Board believes that any time prior to the expiration of the ten-day period immediately following the date of examination is a sufficient amount of time for an applicant to present a written request, with an explanation for the need, for a postponement. This is because, in the Board's experience, ten days is a sufficient time to allow for communication to the Board regardless of whether the reason for postponement was knowable before the examination takes place. Allowing for submission of the postponement request to take place after the examination date also allows for the applicant to request postponement in circumstances that could not

have been foreseen prior to the examination date.

This addition also provides direction to the applicant regarding how to request such a postponement.

The form of this regulation is modeled after the Board's existing regulation at 16 CCR 446 for Professional Engineers and Professional Land Surveyors. The Board determined using the same standard was appropriate here because this will provide consistency to staff workload when reviewing applications by allowing them to apply a single set of common criteria across multiple application types.

- b. Add new subdivision (b) to read "(b) Reasonable cause as used in this section includes any of the following:"

This subdivision is added because it is necessary to define the phrase "reasonable cause" as used in this regulation so that there will not be confusion regarding what grounds, or causes, would be acceptable reasons for the Board to grant a postponement. This will provide consistency to staff workload when reviewing applications by allowing them to apply a single set of common criteria across multiple application types.

- c. Add new subdivision (b)(1) to read "(1) Death of an immediate family member of the applicant, when accompanied by documentation, such as a copy of the death certificate."

This subdivision is added because it is necessary to clarify what circumstances and information will be considered and accepted for a postponement of an examination. The Board believes the death of an immediate family member is an appropriate basis for postponement to allow the applicant time to grieve the loss of a loved one. The Board is seeking to require documentation of the death to give the Executive Officer some evidentiary basis beyond the claim of the applicant on which to make the decision to grant the postponement.

- d. Add new subdivision (b)(2) to read "(2) Illness, including contagious disease, or injury to the applicant or an immediate family member of the applicant, when accompanied by an original letter on letterhead from the health care provider, which includes the date(s), nature of the illness or injury, and the health care provider's signature."

This subdivision is added because it is necessary to clarify what circumstances and information will be considered and accepted for a postponement of an examination. The Board believes illness, especially a contagious disease, is an appropriate basis to potentially grant a postponement out of consideration for the health of the applicant (to allow the applicant to seek medical attention or to recuperate) and the health of other examinees in the case of contagious disease. The Board is seeking that the evidence take the form of an original letter on letterhead from the health care provider to ensure that the illness or disease has been recognized by a health care provider and is likely to actually be affecting the applicant. The Board believes the letter should contain a date to demonstrate the illness or disease is recent, and that the letter should contain a description of the illness or injury to show the illness or injury is of a type likely to affect the health of the applicant or the other examinees. The Board is seeking to include the requirement of a health care provider's signature to show that that condition has been vetted and can be attested to by a professional.

- e. Add new subdivision (b)(3) to read “(3) Natural disaster or other declared national, state, or local emergency.”

This subdivision is added because it is necessary to clarify what circumstances will be considered for a postponement of an examination. A natural disaster may affect the location where an examination is given, may affect the applicant's ability to attend the examination, or may pose a significant danger to the applicant's safety. The Board believes such dangers justify a postponement out of concerns for the applicant's safety.

- f. Add new subdivision (b)(4) to read “(4) Military service, when accompanied by official military orders.”

This subdivision is added because it is necessary to clarify what circumstances and information will be considered and accepted for a postponement of an examination. The Board considers military service a sufficient justification for postponement because military orders are beyond the control of the applicant. A military deployment or other orders may make the applicant unable to continue for reasons the applicant cannot dictate. The Board believes a copy of official military orders to be sufficient evidence that the service and orders exist.

- g. Add new subdivision (b)(5) to read “(5) Jury duty, when accompanied by documentation, such as the summons issued by the court.”

This subdivision is added because it is necessary to clarify what circumstances and information will be considered and accepted for a postponement of an examination. The Board considers jury duty to be a sufficient justification for seeking a postponement because it, like many of the other circumstances listed, is beyond the control of the applicant. The Board also wishes to promote active participation in civil service. The Board believes submission of documentation of the jury duty requirement to be sufficient evidence because such documentation is issued by a third party and can be verified by the Board if necessary.

- h. Add new subdivision (b)(6) to read “(6) Unforeseen circumstances beyond the control of the applicant, including an accident, on the day of the examination that prevent the applicant from appearing at the examination location at the time and place set for the examination, when accompanied by documentation such as police reports, witness statements and photos.”

This subdivision is added because it is necessary to clarify what circumstances and information will be considered accepted for a postponement of an examination. This last provision is necessary to the Board to exist as a general category of unforeseen events not otherwise captured by these regulations. The Board believes exigent circumstances beyond the applicant’s control should not be held against the applicant. As long as the applicant can submit information to the Board explaining and giving evidence to the claim, the Board believes it may be appropriate to allow a postponement.

- i. Add a new Note including Authority and Reference citations.

This note is being added to demonstrate the statutory authority upon which this section is being added, along with an index of citations to the statutes implemented via this proposed regulation.

Section 7818 is the Board’s general authority statute. The statutes in the reference citation outline the prerequisites for licensure as a geophysicist (section 7841.1), certification as a geologist-in-training (section 7841.2), and certification in a specialty in geology (section 7842). These sections are being implemented by this regulation as they apply to examinations relevant to those underlying statutes.

Finally, section 7844, broadly describes the Board’s ability to define the times, places, scope, and methods by which examinations for licensure may be held, and the Board’s ability to act with an outside organization to conduct the examination and collect payments for the examination. Proposed section 3024.5 relates to the manner in which examinations are given by implementing a process for postponing examination – related to the place and time the examination occurs.

V. Repeal Section 3026. Unqualified Applicant: Refund of Examination Fee

This section is being repealed in its entirety pursuant to this proposed rulemaking. As noted in the Introduction and Problem Statement portion of this Initial Statement of Reasons, this section needs to be repealed because the Board will no longer be collecting the examination fees for ASBOG examinations, and the applicants will not pay the examination fees for the state-specific examinations until after it has been determined that they meet the qualifications required for licensure other than passing the examinations. As such, this regulation needs to be repealed to avoid confusion for applicants and licensees.

VI. Amend Section 3031. Examination Credit Professional Geologist, Professional Geophysicist and Specialty Certification

- a. Amend the title of this section by replacing “Examination Credit” in the title with “Examinations: Geologist-in-Training,”

This change is needed because this section addresses examinations, not “examination credit,” and because it also applies to Geologist-in-Training examinations, as well as Professional Geologist, Professional Geophysicist, and Specialty Certification examinations.

- b. Add new subdivision (a) to read “(a) Pursuant to Section 7841.2 of the Code, each applicant for certification as a geologist-in-training shall successfully pass the Fundamentals of Geology examination created and conducted by the National Association of State Boards of Geology, also known as ASBOG, by meeting the requirements set by ASBOG for taking, and receiving a passing score for, that examination. After January 1, 2023, applicants shall directly contact ASBOG, or its designated vendor, if applicable, to obtain a date, time, and place (testing facility) to take the Fundamentals of Geology examination. Applicants shall pay all ASBOG’s required examination fees for examination materials and services directly to ASBOG, or its designated vendor, if applicable, and shall comply with all ASBOG examination and test center policies, procedures, and rules.”

This new subdivision is added to specify that applicants for certification as a geologist-in-training must follow ASBOG's procedures in registering, paying for, and taking the FG examination because, as stated in the beginning of this Initial Statement of Reasons, geologist-in-training applicants are required to pass the national Fundamentals of Geology (FG) examination, administered by ASBOG. This examination will transition to a computer-based testing (CBT) format with the Spring 2023 administration, and, at that time, applicants will register directly with ASBOG and pay the examination fees directly to ASBOG. Per ASBOG, all remaining pen-and-paper examinations have been administered as of October 2022 (see Underlying Data items 5 and 6).

- c. Renumber existing subdivision (a) to subdivision (b).

This change is needed because a new subdivision (a) is being added and for formatting purposes.

- d. Amend existing subdivision (a) to insert the word "supplemental" in the phrase "pass point in the California specific examination."

This change is needed because the statute (Business and Professions Code section 7841, subdivision (d)) uses the phrase "supplemental California specific examination." It is appropriate to use the same wording because this will provide consistency between the regulation and the Geologist and Geophysicist Act and eliminate any confusion as to which examination is being referred to in the regulation.

- e. Amend existing subdivision (a) to repeal the language "(d)" in the existing reference to "Section 7841 of the Code."

This change is being made to clarify that an applicant must meet all of the requirements of Section 7841. The amendment of subdivision (a) to (b) is due to the addition of the new subdivision (a) above. The repeal of subdivision (d) is due to it applying to all of Section 7841 rather than just subdivision (d).

- f. Add subdivision (b)(1) to read "(1) Each applicant shall meet the requirements set by ASBOG for taking, and receiving a passing score for, Fundamentals of Geology and Practice of Geology examinations. After January 1, 2023, applicants shall directly contact ASBOG, or its designated vendor, if applicable, to obtain a date, time, and place (testing facility) to take the Fundamentals of Geology and the Practice of Geology examinations. Applicants shall pay all ASBOG's required examination fees

for examination materials and services directly to ASBOG, or its designated vendor, if applicable, and shall comply with all ASBOG examination and test center policies, procedures, and rules.”

This change is being made to specify that applicants for licensure as a professional geologist must follow ASBOG’s procedures in registering, paying for, and taking the FG and PG examinations because, as stated at the beginning of this Initial Statement of Reasons, professional geologist applicants are required to pass the national Fundamentals of Geology (FG) and the Practice of Geology (PG) examinations, administered by ASBOG. These examinations will transition to a computer-based testing (CBT) format with the Spring 2023 administration, and, at that time, applicants will register directly with ASBOG and pay the examination fees directly to ASBOG.

- g. Renumber existing subdivision (b)(1) to (b)(2). Delete the word “Candidates” and replace that word with “Applicants”. Add the word “supplemental” in the phrase “the California specific examination” and add the phrase “as separate examinations.” Delete the phrase “submit an application to”.

The Board has determined the term “applicants” is more appropriate than the term “candidates” because “applicants” is a preferred term that refers to a person applying for a license or certification. The term “applicant” is used throughout our current regulations, and, therefore, this change is needed to be made for consistency within regulations. The word ‘Candidates’ will be replaced with “Applicants” in reference to the Board Rules and Regulations Relating to the Practices of Professional Engineering and Professional Land Surveying CCR Title 16, Division 5, Sections 400-476.

The word “supplemental” is being added because the statute (Business and Professions Code section 7841, subdivision (d) uses the phrase “supplemental California specific examination.” It is appropriate to use the same wording because this will provide consistency between the regulation and the Geologist and Geophysicist Act and eliminate any confusion as to which examination is being referred to in the regulation.

The phrase “as separate examinations” is being added to clarify that each examination is administered and scored separately. This will clarify for applicants that each examination may be taken and passed separately so that they understand that they do not need to retake an examination(s) they have passed if they fail one of the other required examinations.

The Board does not require an applicant who has failed an examination to submit a new application; therefore, the phrase “submit an application to” is being removed to avoid confusion.

- h. Renumber existing subdivision (b) to subdivision (c). Delete the word “California” in two places and add language clarifying where an examination may be required by the Business and Professions Code.

This change is needed because a new subdivision (a) was added and for formatting purposes. The word “California” is unnecessary with the addition of the reference to Business and Professions Code sections 7841.1 and 7842. The sections are added and the word “California” is deleted to provide clarity regarding the specific examinations required.

- i. Correct the Note to the regulation by deleting a reference to BPC section 7842.1 and adding a reference citation to section 7844.

Section 7842.1 describes the prerequisites for a certification in a specialty in geophysics. While 16 CCR section 3031 does relate to the Geophysicist Specialty Certification, it does not specifically implement the existing prerequisite standard. Further, the reference citation to section 7841.1 regarding the examination standard remains; as such, there is no reason to retain the existing reference citation to section 7842.1.

Section 7844 is, however, being implemented by 16 CCR section 3031, as section 7844 relates to the scope of and procedure for examination, including contractual relationships with examination providers. These proposed regulations directly relate to the Board’s use of examinations provided by the National Association of State Boards of Geology, including the method of administration of the examination and the payment of fees.

Underlying Data

Technical, theoretical, or empirical studies, reports, or documents relied upon:

1. November 8-9, 2021, Board Meeting, Agenda Item 8A – Amendments to Title 16, California Code of Regulations sections 3005, 3024, and 3026 relating to Examination fees and Agenda Item 8B – Amendments to Title 16, California Code of Regulations section 3024 relating to Abandoned Applications and Postponements and Board meeting materials.
2. Minutes from the November 8-9, 2021, Board Meeting.
3. June 23-24, 2022, Board Meeting, Agenda Item 5A – Amendments to, Adoption of, and Repeal of Title 16, California Code of Regulations sections 3005, 3024, 3024.5, 3026, and 3031 relating to ASBOG Examination Fees, Abandoned

- Applications, Postponements, and Examinations and Board meeting materials.
4. Minutes from the June 23-24, 2022, Board Meeting.
 5. ASBOG.org – “Computer Based Testing coming in 2023!” article, as accessed October 19, 2022 (<https://asbog.org>).
 6. ASBOG.org – Computer Based Testing Information, as accessed October 19, 2022 (<https://asbog.org/cbt/index.html>).
 7. ASBOG Computer Based Testing Unified Registration Process.

Business Impact

The Board has made an initial determination that this proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including affecting their ability to compete in other states. The determination is based on the fact that the action applies to individual applicants for licensure and not to businesses, which are not licensed by the Board.

Additionally, because the Board currently passes all examination fee revenues collected to the ASBOG and because the regulations will require individuals to pay examination fees directly to ASBOG, no economic impacts are anticipated.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because repealing unqualified applicants and appeals of examinations fees and abandoned applications has no bearing on job creation or elimination.
- It will not create new business or eliminate existing businesses within the State of California because businesses are not licensed by the Board.
- It will not affect the expansion of businesses currently doing business within the State of California because businesses are not licensed by the Board.
- This regulatory proposal benefits the health and welfare of California residents by eliminating and repealing the regulations that can no longer be followed.
- This regulatory proposal does not benefit worker safety, as the regulatory proposal is not related to worker safety issues.
- This regulatory proposal does not affect the State’s environment because the proposal is not making any changes to the state’s environment.

Specific Technologies or Equipment

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

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or

less burdensome to affected private persons 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. The Board welcomes comments from the public.