

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 29.
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND
GEOLOGISTS

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
ASBOG Examination Fees, Abandoned Applications,
Postponements, and Examinations

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers, Land Surveyors, and Geologists (“Board”) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than Tuesday, December 27, 2022**, or must be received by the Board at the hearing, should one be scheduled. The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section(s) 7818 and 7887 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section(s) 158, 7822, 7841, 7841.1, 7841.2, 7842, 7844, 7851, 7880, 7881, and 7887, the Board is considering amending Section(s) 3005, 3024, and 3031 of Title 16 of the California Code of Regulations (CCR). The Board is also considering repealing Section 3026 and adding Section 3024.5 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Board regulates Professional Engineers, Land Surveyors, Geologists, and Geophysicists. BPC sections 7818 and 7887 authorize the Board to adopt, amend, or repeal rules and regulations which are reasonably necessary to carry out the provisions relating to the Geologist and Geophysicist Act (BPC section 7800, et seq.).

The Board proposes to amend Title 16, California Code of Regulations (CCR) sections 3005, 3024, 3031; add Title 16, California Code of Regulations (CCR) section 3024.5; and repeal Title 16, California Code of Regulations (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 candidates 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 to 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.

The primary purpose of this proposal is to implement, interpret, and make specific the provisions of BCP sections 158, 7822, 7841, 7841.1, 7841.2, 7842, 7844, 7851, 7880, 7881, and 7887 to clarify and ensure that applicants understand the current language and to provide consistency and clarity between the regulations.

Anticipated Benefits of Proposal

Amending 16 CCR 3005, 3024, and 3031, adding 16 CCR 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 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, examination fees paid to the Board are not charged until the applicant is deemed to be qualified. Therefore, 16 CCR 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 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 maintain the clarity from the two issues.

As such, it is proposed to amend 16 CCR 3024 so that it addresses only abandoned applications and to add 16 CCR 3024.5 to address postponements of examinations. Indicating the circumstances in which an application will be considered abandoned, and a new application 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.

Also, 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 which benefits the public health. Moreover, it furthers the goal of the Board's mission statement which is to protect the public's safety and property by promoting standards for competence and integrity through licensing and regulating the Boards' professions.

Evaluation of Consistency and Compatibility with Existing State Regulations

This Board has evaluated this regulatory proposal, and it is neither inconsistent nor incompatible with existing state regulations. The primary purpose of this proposal is to implement, interpret, and make specific the provisions of BPC sections 158, 7822, 7841, 7841.1, 7841.2, 7842, 7844, 7851, 7880, 7881, and 7887.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The regulations are anticipated to result in workload costs savings and reduced revenues to the Board.

The Board currently administers two examinations per year with staffing costs of approximately \$17,400, plus site rental costs of \$16,000. As a result, the regulations are estimated to result in total costs of approximately \$35,800 per year.

Additionally, applicants will no longer pay exam fees to the Board. Currently, the Board collects \$200 and \$250 for each FG and PG examination, which is passed onto the ASBOG. The Board estimates reduced revenues of \$55,400 (FG) and \$45,000 (PG) per year. Because the full amount of FG and PG examination fee revenues is currently passed onto ASBOG, the regulations do not result in a reduced fund balance reserve to the Board.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

BUSINESS IMPACT ESTIMATES

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

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The regulations transfer the administration of the FG and PG examinations from the Board to ASBOG and are not anticipated to result in additional costs to individuals or businesses.

Effect on Housing Costs: None

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

Impact on Jobs / Businesses

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

Benefits of Regulation

This regulatory proposal aligns the Board's regulations with the transition of the administration of the national exams to the ASBOG and computer-based testing, which will allow greater access to applicants. 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.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Board may be impacted, the Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833. Materials regarding this proposal can also be found at:

http://www.bpelsg.ca.gov/about_us/rulemaking.shtml.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently

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

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Angela Yu
Address: 2535 Capitol Oaks Drive, Suite 300 Sacramento, CA 95833
Telephone No.: (916) 999-3610
E-Mail Address: Angela.Yu@dca.ca.gov

The backup contact person is:

Name: Nancy Eissler
Address: 2535 Capitol Oaks Drive, Suite 300 Sacramento, CA 95833
Telephone No.: (916) 999-3580
E-Mail Address: Nancy.Eissler@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at : <http://www.bpelsg.ca.gov>. Materials regarding this proposal can be found at: http://www.bpelsg.ca.gov/about_us/rulemaking.shtml.