

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

**INITIAL STATEMENT OF REASONS CONCERNING
REPEAL OF REGULATIONS REGARDING EXAMINATION APPEALS**

Hearing Date: No Hearing Scheduled

Subject Matter of Proposed Regulations: Examination Appeal

Authority cited: Business and Professions Code (BPC) Sections 6716, 6754, 8710, and 8745.

References cited: BPC Sections 6754 and 8745

Sections Affected: Title 16, California Code of Regulations (CCR) sections 443 (Inspection of Examination) and 444 (Examination Appeal).

Problem Statement & Specific Purpose of Each Adoption, Amendment, or Repeal:

Title 16 CCR sections 443 and 444 allow for the inspection and appeal of a state-specific Professional Engineering or Professional Land Surveying examination by the examinee. Sections 443 and 444 indicate that an appeal can only be made on an essay problem and that multiple-choice problems are not appealable. Because all the state-specific examinations are now multiple-choice, there are no longer any examinations that may be appealed. As such, these sections need to be repealed to ensure that individuals are not misled into believing that there are examinations that can be appealed by applicants.

Anticipated Benefits from this Regulatory Action:

Repealing Title 16 CCR Sections 443 and 444 will remove any confusion caused by the existence of regulations that address processes that cannot be followed. The current regulations allow for the appeal and inspection of state examinations only and specify that multiple-choice format examinations cannot be appealed.

All of the Board's state examinations are multiple-choice format. Therefore, as specified in the regulations, none of the Board's state examinations are appealable. Maintaining these regulations can give the mistaken impression to people that examinations are appealable. Therefore, the proposed deletion will benefit examinees by clarifying the process.

Factual Basis/Rationale

Until 2012, some engineering and land surveying examinations had essay questions, which allowed for disparity in the grading process. Because of this, the Board allowed the inspection and appeal of examinations by applicants. In the Fall of 2012, all of the state

specific engineering and land surveying examinations moved to computer-based-testing (CBT) examinations made up entirely of multiple-choice questions.

In 2013, the Board intended to repeal Sections 443 and 444 at the same time as it was repealing other sections that related to the appeal and inspection of state specific geology and geophysics examinations. However, these sections were inadvertently left out of that rulemaking proposal. The Board is now pursuing the repeal of these two sections.

Underlying Data

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

1. Board for Professional Engineers, Land Surveyors, and Geologists 2015-2018 Strategic Plan, Strategic Goals 2, 2.1, 2.10, & 3.5.
2. March 7, 2013, Board Meeting, Agenda Item 9B - Recommendation to Repeal Board Rules (Title 16 CCR Sections 443, 444, 3036.1, and 3037.1) Engineers, Land Surveyors, and Geologists – Inspection and Appeal of Examination.
3. Minutes from the March 7, 2013, Board Meeting.

Fiscal Impact Assessment

The Board indicates the proposed regulations will provide clarity to its examination process and will not increase costs to the state.

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.

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 inspection and appeals of licensing examinations 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. Individuals owning businesses will not be affected.
- It will not affect the expansion of businesses currently doing business within the State of California because businesses are not licensed by the Board. Individuals owning businesses will not be affected.
- This regulatory proposal benefits the health and welfare of California residents by eliminating regulations that address a review process that can no longer be followed. By allowing the regulations to remain in place, California residents could be misled into believing examinations could be appealed.
- This regulatory proposal should not affect worker safety because this proposal is

specific to examination appeals for applicants; it is not anticipated to impact current business practices affecting worker safety.

- This regulatory proposal does not affect the State's environment because eliminating a regulatory avenue for appeal does not affect the environment.

Specific Technologies or Equipment

This regulation 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.

Set forth below is the alternative that was considered and the reason it was rejected:

- Continue to maintain regulations that address a process that, by virtue of the language of the regulations themselves, can no longer be followed. This alternative would lead to confusion for licensure applicants by giving them the mistaken impression that examinations could still be inspected and appealed.