

**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND  
GEOLOGISTS  
CALIFORNIA CODE OF REGULATIONS. TITLE 16. DIVISION 5.  
Notice of Regulatory Action Concerning  
Repeal of Regulations Regarding Examination Appeals**

**NOTICE IS HEREBY GIVEN** that the Board for Professional Engineers, Land Surveyors, and Geologists is proposing to take the action described in the Informative Digest. The Board does not intend to hold a hearing in this matter. If an interested party wishes that a hearing be held, he or she must make the request in writing to the Board no later than fifteen days prior to the close of the written comment period.

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 the 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.

Written comments, 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 not later than 5:00 p.m. on April 13th, 2021, or must be received by the Board immediately following the hearing if a hearing is requested and held. 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.

Authority and Reference: Pursuant to the authority vested by Sections 6716 and 8710 of the Business and Professions Code (BPC), and to implement, interpret, or make specific sections 6754 and 8745, the Board is considering changes to Division 5 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

BPC sections 6716, 7818, and 8710 authorize the Board to adopt, amend, or repeal rules and regulations which are reasonably necessary to carry out the provisions of the Professional Engineers Act (BPC sections 6700, *et seq.*), the Geologist and Geophysicist Act (BPC sections 7800, *et seq.*), and the Professional Land Surveyors' Act (BPC sections 8700, *et seq.*), respectively. BPC sections 6754 and 8745 prescribe and establish the statutory requirements to administer examinations for licensure.

The Board proposes to repeal Title 16, California Code of Regulations (CCR) sections 443 and 444 related to examination inspection and appeal. 16 CCR 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. However, 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.

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. 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.

The board anticipates the proposed repeal will clarify that examinations may no longer be inspected or appealed. This will benefit examinees by clearing up any misunderstandings regarding examination appeals. In addition, the proposal seeks to improve the consistency between regulations for the various professions regulated by the board. During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

## FISCAL IMPACT ESTIMATES

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

No fiscal impact exists as appeals for state specific engineering and land surveying exams ceased in 2012 when exams moved to CBT with multiple-choice questions.

### 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 Requires Reimbursement:

None

### Business Impact:

The Board has made an 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, because multiple-choice examinations cannot be appealed.

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, because multiple-choice examinations cannot be appealed

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses; the Board licenses individuals.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant 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 because multiple-choice examinations cannot be appealed.

Benefits of Regulation:

The Board has determined that 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.

CONSIDERATION OF ALTERNATIVES

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 either be more effective in carrying out the purpose for which the action is proposed or would be effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations 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](http://www.bpelsg.ca.gov/about_us/rulemaking.shtml)

## 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 PERSON

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  
Fax No.: (916) 263-2246  
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  
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E-Mail Address: Nancy.Eissler@dca.ca.gov

## WEBSITE ACCESS

The Board's website is: <http://www.bpelsg.ca.gov>. Materials regarding this proposal can be found at: [http://www.bpelsg.ca.gov/about\\_us/rulemaking.shtml](http://www.bpelsg.ca.gov/about_us/rulemaking.shtml).