

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

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations:

Section(s) Affected: Amend Section 425 of Title 16, Division 5 of the California Code of Regulations (CCR)

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed: Application processing times are excessively long for Land Surveyor applicants because the regulation which pertains to Land Surveyor application requirement is ambiguous. Title 16 CCR Section 425 is unclear and unnecessarily complex. Even when the complicated and technical nature of the subject matter is taken into account, the language is still confusing for the individuals who must comply with the regulations. The complexity and lack of clarity in this regulation creates an unnecessary hindrance to the individuals who must comply with the regulation.
2. Anticipated benefits from this regulatory action: By improving the clarity of this regulation the Board for Professional Engineers, Land Surveyors, and Geologists (Board) anticipates increased compliance and less burdensome petitions for additional documentation and discussion pertaining to mandated work experience requirements.

Factual Basis/Rationale

The Board is charged with safeguarding the life, health, property, and public welfare by regulating the practices of professional engineering, land surveying, geology, and geophysics. The Board provides this public service by qualifying and licensing individuals, establishing regulations, enforcing laws and regulations, and providing information so that consumers can make informed decisions.

Business and Professions Code Section 8742 was amended by Chapter 878, Statutes of 1998, to require applicants applying for the professional land surveyor examination to possess actual broad based progressive experience in land surveying, including one year of responsible field training and one year of responsible office training satisfactory to the Board. Following this,

Title 16 CCR Section 425 was amended to add specific language and guidelines to address actual broad based progressive experience as mandated.

Title 16 CCR Section 425 subdivision (c) and (d) provide lengthy lists of example activities that are included in the meaning of the terms “responsible field training” and “responsible office training.” During the development process of this regulation, the Board elected to list example activities which constitute “responsible field training” and “responsible office training.” At that time, the Board believed it would be providing a clearer guidance to applicants and references so they would have a better understanding of what activities constitute qualifying experience. Unfortunately, this is not how the regulation has been interpreted. Board Subject Matter Experts (SMEs) who review the Professional Land Surveyor applications, official transcripts, and references, indicate the lists appear not to be viewed as guidance, but as checklists. A large number of applicants copy verbatim a certain number of the items from each category as evidence of qualifying experience. This is not sufficient for describing how the applicant has met the requirements for responsible field and office training. Each professional land surveyor engagement record and reference form submitted by an applicant claiming work experience must be certified by a professional reference who is appropriately licensed and in responsible charge at the time the claimed experience occurred. Moreover, a professional reference must be a licensed Professional Land Surveyor and must be a person who is technically qualified to appraise an applicant’s skills as a Land Surveyor. Based on the Board’s experience, the Board reflects that many of the professional references also do not fully understand the current legal requirements necessary to become licensed. Therefore, they do not sufficiently advise the applicants on the requirements necessary to become licensed prior to completing their portions of the forms. Additionally, with the evolving nature of the profession and technology, many tasks that were traditionally done in an office setting can now be done in the field, leading to confusion among applicants as to whether the work performed would be counted as “field” or “office” training.

Another issue of concern relates to the experience a licensed civil engineer must demonstrate to be qualified for licensure as a land surveyor. Business and Professions Code Section 8742(a)(3) requires licensed Civil Engineers to have two years of “actual broad based progressive experience in land surveying.” However, the current regulatory language does not clarify what is meant by “actual broad based progressive experience in land surveying.” This leads to confusion and frustration on the part of civil engineers when they are advised that their experience is not sufficiently “broad based” to qualify them for licensure as a land surveyor. This proposal will add specific language and guidelines to address actual broad based progressive experience as mandated by Business and Professions Code Section 8742 and will amend the language contained in the current regulations to conform to the language contained in existing statutes.

The Board estimates that approximately 50% of new applicants for licensure as a Professional Land Surveyor require additional documentation and detail during the application review process. Applications are individually evaluated and processing times can vary based on individual circumstances. However, insufficient documentation of work experience is the most common issue delaying application review. The Board has spent approximately 5 years conducting outreach events geared towards educating stakeholders on the requirements necessary

for licensure. In spite of these efforts, Land Surveyor applications have failed to adequately improve. If an application is insufficient, Board staff must reach out to each applicant for clarification; thereby drastically delaying the application review and approval process.

The Board's Land Surveyor Technical Advisory Committee (LSTAC) has discussed this issue at its last three meetings. Members of the committee and the public voiced the need for clarification, indicating that current language in Title 16 CCR Section 425 is not easily understood by those individuals directly affected by it.

Underlying Data

1. Board Meeting, April 21-22, 2016, Agenda Item IV, Consideration of Rulemaking Proposals, Proposal to Amend Title 16, California Code of Regulations §425, and Minutes
2. Goal 3, Board for Professional Engineers, Land Surveyors, and Geologists 2015-2018 Strategic Plan.
3. LSTAC Meeting, March 2, 2016, Agenda Item IV, Discussion and Possible Recommendation of Amendments to Board Rule 425 (Title 16, California Code of Regulations section 425) regarding Experience Requirements – Professional Land Surveyors, and Minutes.
4. LSTAC Meeting, November 4, 2015, Agenda Item 5, Review and Discussion of Possible Amendments to Board Rule 425 (Title 16, California Code of Regulations section 425) regarding Experience Requirements – Professional Land Surveyors, and Minutes.
5. LSTAC Meeting, June 10, 2015, Agenda Item 5, Review and Discussion of Possible Amendments to Board Rule 425 (Title 16, California Code of Regulations section 425) regarding Experience Requirements – Professional Land Surveyors, and Minutes.

Business Impact

This regulation will not have a significant adverse economic impact on businesses. The proposed rulemaking action only affects the updating of the language of the regulation to mirror the statutes previously in effect and makes changes to the description of what constitutes qualifying experience for licensure as a Professional Land Surveyor for the sake of clarification and efficiency.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposed rulemaking action only affects the updating of the language of the regulation to mirror the statutes previously in effect and makes changes to the description of what constitutes qualifying experience for licensure as a Professional Land Surveyor for the sake of

clarification and efficiency.

- It will not create new businesses or eliminate existing businesses within the State of California because the proposed rulemaking action only affects the updating of the language of the regulation to mirror the statutes previously in effect and makes changes to the description of what constitutes qualifying experience for licensure as a Professional Land Surveyor for the sake of clarification and efficiency.
- It will not affect the expansion of businesses currently doing business within the State of California because the proposed rulemaking only affects the updating of the language of the regulation to mirror the statutes previously in effect and action only makes minor changes for the sake of clarification and efficiency.
- This proposed rulemaking action does not affect the health and welfare of California residents because it only affects the updating of the language of the regulation to mirror the statutes previously in effect and only makes minor changes for the sake of clarification and efficiency.
- This proposed rulemaking action does not affect work safety because it only affects the updating of the language of the regulation to mirror the statutes previously in effect and only makes minor changes for the sake of clarification and efficiency.
- This proposed rulemaking action does not affect the state's environment because it only affects the updating of the language of the regulation to mirror the statutes previously in effect and only makes minor changes for the sake of clarification and efficiency.

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.