

**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND
GEOLOGISTS**

INITIAL STATEMENT OF REASONS

Hearing Date: None Scheduled

Subject Matter of Proposed Regulations: Waiver of Fundamentals Examination

Sections Affected:

- Amend Section 438 of Article 3 in Division 5 of Title 16 of the California Code of Regulations.

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

The problem being addressed is the inaccurate and contradictory language in section 438, subsections (a)(2), (b)(7) and (b) (2).

- As a result of updated testing procedures, section 438 (a)(2) and 438 (b)(7) must be amended to remove language identifying an eight hour written examination.
- As a result of legislation passed in 2012 (Senate Bill 1576; amended by Stats. 2012, Ch. 661, Sec. 12) individuals that hold an Engineers-in-Training (EIT) certificate can no longer use the certificate to waive the Land Surveyors in Training (LSIT) certificate. Therefore, section 438 (b)(2) must be removed from the regulation.

2. Anticipated benefits from this regulatory action:

This regulatory action will bring the Board's regulations into compliance with statute. Additionally, these amendments will help to maintain the Board's mission to evaluate current laws and regulations and pursue changes where appropriate.

Furthermore, these amendments will make it easier for the consumers of California and the Board's applicants, licensees, and certificate holders to comprehend and follow the laws and regulations. These amendments will also provide consistency within the Board's current procedures.

Factual Basis/Rationale

It is the intent of the Board to ensure that its laws are clear, concise, efficient, and

necessary. To that extent, staff is proposing regulation amendments to the examination components of the Professional Engineers Act, Professional Land Surveyors' Act, and Geologist and Geophysicist Act so that they are all similar in content and form. These modifications would make it easier for the consumers of California and the Board's applicants, licensees, and certificate holders to comprehend and follow the laws and regulations. It would also provide consistency with the Board's current procedures and maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

Since October 2011, the Board has utilized computer-based testing (CBT) centers and the National Council of Examiners for Engineering and Surveying (NCEES) for administration of its licensure examinations. The administration of the examination in CBT format has changed the way applicants take the examination. Prior to CBT testing, applicants could choose to take their examinations once or twice a year and only on a specified date and time. The examinations were prepared by the NCEES and the Board and the applicants were given eight hours to complete the examinations. All applicants nationally followed the same place and time restraint.

The examination itself has always been based on content rather than on time. The content is developed to test if the applicant is minimally competent in the discipline in which they are being examined. Having an 'eight-hour' examination may have been utilized to maintain consistency and to have a recognizable identifier if an applicant has passed the examination in one state and is applying for reciprocity in another state. An applicant only needs to successfully pass the 'eight-hour' examination once in any state to gain reciprocity and not have to take that same examination again in another state.

With the implementation of CBT, however, applicants can select their examination date from a variety of times and places. As such, an 'eight-hour' examination identifier is no longer utilized for applicants applying for certification or licensure. Therefore, Section 438 must be amended to remove the 'eight hour' language.

Section 438 (a)(2) and 438 (b)(7)

- Both the Fundamentals of Engineering (FE) and Fundamentals of Surveying (FS) examinations are national examinations which are developed by the National Council of Examiners for Engineering and Surveying (NCEES). NCEES has updated the way in which they provide the FE and FS exam. The FE and FS are now given in a computer based test. Additionally, the examinee is no longer tested within an eight hour timeframe. Currently, the FE and FS examinees are tested on the content of the exam, not the timeframe. Once the applicant passes the FE or FS exam the applicant applies to the board for their EIT or LSIT certificate.
- It is assumed the 'eight hour' designation given to examinations dates back to the early 1920s and was based on a workday. The 'eight hour' designation was not

intended to be a standard time frame for examinations. Having an 'eight-hour' examination may have been utilized to maintain consistency and to have a recognizable identifier if an applicant has passed the examination in one state and is applying for reciprocity in another state. An applicant only needs to successfully pass the 'eight-hour' examination once in any state to gain reciprocity and not have to take that same examination again in another state.

Section 438 (b)(2)

- Statutory obligations forbid the Board from substituting the EIT certificate for the LSIT certificate. The legislature has declared that the EIT certificate is no longer an appropriate or adequate alternative to waive the LSIT certificate.
- Over time the composition of the FE examination has changed. The FE examination is now focused on engineering-related matters only, as opposed to having some land surveying-related questions included.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any):

1. Board Meeting, 2/9/15 , Agenda Item IV, Consideration of Rulemaking Proposals, Proposed amendments to Division 5 and 9 of Title 16, California Code of Regulations
2. Goal 3, Board for Professional Engineers, Land Surveyors, and Geologists 2015-2018 Strategic Plan.

Business Impact

This proposed regulatory action will not have a significant adverse economic impact on businesses. This initial determination is being made since the changes to Section 438(a)(2) and 438(b)(7) affect only the removal of language regarding inaccurate examination timelines. The changes to Section 438(b)(2) are being made for the purpose of complying with statutorily mandated changes to Business and Professions Code section 8741(a). This change will not have an impact to businesses in California.

Economic Impact Assessment

This proposed regulatory action will have the following effects:

- It will not create or eliminate jobs within the State of California by simply removing inaccurate language from the regulation. The removal of the waiver of the LSIT certificate with an EIT certificate will also not create or eliminate jobs within the State of California since it affects a very minimal population of applicants.
- It will not create new businesses or eliminate existing businesses within the State of California by simply removing inaccurate language from the regulation. The removal of the waiver of the LSIT certificate with an EIT certificate will also not

create or eliminate jobs within the State of California since it affects a very minimal population of applicants.

- It will not affect the expansion of businesses currently doing business within the State of California by simply removing inaccurate language from the regulation. The removal of the waiver of the LSIT certificate with an EIT certificate will also not create or eliminate jobs within the State of California since it affects a very minimal populations of applicants.
- This proposed regulatory action benefits the health and welfare of California residents because it ensures that those seeking licensure as a land surveyors will be taking the FS exam and receiving their LISIT certification, instead of waiving it via a certification that was not intended to be used for land surveying.
- This proposed regulatory action benefits worker safety because it ensures that licensees have been properly licensed and are in compliance with all laws and regulations according to Board statutes and regulations.
- This proposed regulatory action does not affect the state's environment because the proposal is not making any amendments that would affect the state's environment.

Specific Technologies or Equipment

This proposed regulatory action 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.

Keeping the status quo would result in the following:

- The Board continuing to indicate in its regulations that examinations are eight hours in length, when, in fact, they are not.
- The Board continuing to be out of compliance with Business and Professions Code section 8741(a), which no longer allows EIT certificates to waive the LSIT certificate.