

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

FINAL STATEMENT OF REASONS

Hearing Date: No hearing was scheduled nor was one requested.

Subject Matter of Proposed Regulations: Citation Program.

Section(s) Affected: Amend Sections 472, 472.1, 472.2, 472.3, 472.4, 473, 473.1, 473.2, 473.3, 473.4 3062, 3062.1, 3062.2, 3062.3, 3062.4, 3063, 3063.1, 3063.3, and 3063.4 of Article 3 in Division 5 of Title 16 of the California Code of Regulations.

Updated Information: The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

In re-reviewing the language after the original notice and following discussions with the Board's Legal Counsel, it has been determined that the language in Sections 472(b)(2), 473(b)(2), 3062(b)(2), and 3063(b)(2) should be changed to conform to the language in the enabling statute (Business and Professions Code section 125.9(b)(1)). The wording "basis of the citation" is being changed to the wording "nature of the violation."

The Board issued a 15-Day public comment period as a result of changes, June 22, 2016, to July 7, 2016, to allow the public to comment on modified text. No comments were received during the 15-day comment period. On June 9-10, 2016, after having considered all comments in the record, the Board, adopted the final language.

Section 473.2 amendments directly relate to the amendments made to Section 472.2 in order to consistently regulate the process of appealing citations. The necessity to amend both regulations and make them similar will provide language that is easier to understand and include terminology that is similar within all of the Board's laws and regulations.

Local Mandate: A mandate is not imposed on local agencies or school districts.

Small Business Impact: This action will not have a significant adverse economic impact on small businesses.

Consideration of Alternatives: No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Objections or Recommendations/Responses: The following recommendation and/or objections were made regarding the proposed action during the initial comment period:

Comment (1)- Email message, dated May 6, 2016, from Martin Steinpress, PG, CHG, Chief Hydrogeologist at Brown and Caldwell:

Mr. Steinpress submitted his comment after the comment period ended on April 25, 2016. Mr. Steinpress requests an explanation regarding section 3062 specifically stating “why certified specialists are being removed from this section. It appears violations for only geologists and geophysicists (and not hydrogeologists) will be covered in the future.”

Response to Comment:

Although this comment was received after the close of the comment period, the Board accepts the comment for consideration in the rulemaking proposal. However, the Board rejects the content of the comment. An individual cannot be licensed as a Certified Hydrogeologist (CHG) or a Certified Engineering Geologist (CEG) without being licensed as a Professional Geologist (PG), so it is redundant and unnecessary to include the certified specialties when dealing with unlicensed individuals; stating that a person must be licensed as a PG inherently includes people licensed as CHGs and CEGs. If a PG who is not licensed as a CHG or a CEG were to use one of those titles, the individual would be cited under the provisions of Section 3063, not Section 3062.

Section 3062 would still apply to an individual who is not licensed at all using any of the restricted titles.

Staff Review:

In re-reviewing the language after the original notice and following discussions with the Board’s Legal Counsel, it has been determined that the language in Sections 472(b)(2), 473(b)(2), 3062(b)(2), and 3063(b)(2) should be changed to conform to the language in the enabling statute (Business and Professions Code section 125.9(b)(1)). The wording “basis of the citation” is being changed to the wording “nature of the violation.”

Based on comments received and those accepted amendments were made and noticed for an additional 15-day public comment period on June 22, 2015. The comment period ended July 7, 2016. No comments were received during the 15-day comment period.