BEELS 3-2016

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PERMANENT ADMINISTRATIVE RULES

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I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on 11/10/2015 by the

Board of Examiners for Engineering and Land Surveying	820
Agency and Division	Administrative Rules Chapter Number
Jenn Gilbert	(503) 934-2107
Rules Coordinator	Telephone
670 Hawthorne Ave. SE, Suite 220, Salem, OR 97301	
Address	

To become effective Upon filing. Rulemaking Notice was published in the January 2016 Oregon Bulletin.

BEELS JAN 2016

RULE CAPTION

To amend rules related to registration and application for registration and to adopt one rule.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:
820-030-0005

AMEND:
820-010-0505, 820-015-0026, 820-020-0015, 820-020-0025, 820-020-0030, 820-020-0035, 820-040-0005

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:
ORS 670.310, 672.005, 672.107, 672.168, 672.170, and 672.255

Other Authority:

Statutes Implemented:
ORS 672.002 - 672.325

RULE SUMMARY

OAR 820-010-0505 and 820-015-0026 - Amendments remove language related to requesting a grace period to complete the continuing educational requirements.
OAR 820-020-0015, 820-020-0025, 820-020-0030, and 820-020-0035 - Amendments include applicants for registration or certification in the professional rules of conduct.
OAR 820-030-0005 and 820-040-0005 - Amendments include the definition of "professional service" as used in ORS 672.005.

Jenn Gilbert	GilbertJ@osbeels.org
Rules Coordinator Name	Email Address

Authorization Page

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PERMANENT ADMINISTRATIVE RULES

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Agency and Division	Administrative Rules Chapter Number
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670 Hawthorne Ave. SE, Suite 220, Salem, OR 97301	503-934-2107
Address	Telephone
11/10/2015	
Adopted on	
Upon filing.	
Effective date	

RULE CAPTION

To amend rules related to registration and application for registration and to adopt one rule.

Not more than 15 words

RULEMAKING ACTION

ADOPT: 820-030-0005

AMEND:
820-010-0505,820-015-0026,820-020-0015,820-020-0025,820-020-0030,820-020-0035,820-040-0005

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 670.310, 672.005, 672.107, 672.168, 672.170, and 672.255

Other Auth.:

Stats. Implemented: ORS 672.002 - 672.325

RULE SUMMARY

OAR 820-010-0505 and 820-015-0026 - Amendments remove language related to requesting a grace period to complete the continuing educational requirements.

OAR 820-020-0015, 820-020-0025, 820-020-0030, and 820-020-0035 - Amendments include applicants for registration or certification in the professional rules of conduct.

OAR 820-030-0005 and 820-040-0005 - Amendments include the definition of 'professional service' as used in ORS 672.005.

Jenn Gilbert 02/16/2016

Authorized Signer | Printed Name | Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

820-030-0005
Definitions
"Professional service" or "professional services," as used in ORS 672.005, means providing labor that does not produce a tangible commodity, but that requires a high level of training and proficiency.
Stat. Auth.: ORS 670.310, 672.005 & 672.255
Stats. Implemented: ORS 672.002 - 672.325

820-010-0505
Biennial Renewal of Registration or Certification
(1) Registration as a professional engineer, professional land surveyor, or professional photogrammetrist with the Board is on a biennial renewal schedule. As a condition of registration renewal, registrants must demonstrate compliance with the continuing professional development requirements in OAR 820-010-0635. Verification of completing the required professional development requirements on the CPD Organizational Form and fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the registration. The biennial fee to renew a registration is described below:
(a) Professional Engineer — $150.00;
(b) Professional Land Surveyor — $150.00;
(c) Professional Photogrammetrist — $150.00;
(2) Certification as a certified water right examiner is on a biennial renewal schedule. The fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the certification. The biennial fee to renew a certification as a water right examiner is $40.00
(3) A delinquent fee of $80.00 will be assessed on the first day following the expiration date of each registration or certification, if for each biennial renewal period in which renewal fee payment or verification of having timely completed the required continuing professional development hours has not been submitted.
(a) A registration or certification that is delinquent for failure to pay the renewal fee will remain in "delinquent" status until the delinquent fee, in addition to the required renewal fee, is paid.
(b) A registration or certification that is delinquent for failure to submit verification of having timely completed the required continuing professional development hours, when such hours have been completed, will remain in "delinquent" status until the delinquent fee is paid and the verification is submitted.
(c) A registration or certification that is suspended or for which renewal is refused because of failure to complete the required continuing professional development hours cannot be returned to active status or renewed until any delinquent fees and any biennial renewal fees due are paid, in addition to any conditions imposed by the Board for renewal or lifting of the suspension.
(4) Registrations or certificates in the delinquent or retired status for a period of 5 years or more may not be renewed. Delinquent or retired registrants or certificate holders must re-apply and re-take any applicable examination to obtain their certificate of registration or other certificate after a period of 5 years.
Stat. Auth.: ORS 670.310, 672.168, 672.170, & 672.255
Stats. Implemented: ORS 672.002 - 672.325

820-015-0026
Failure to Comply with Continuing Professional Development Requirements
Any registrant who fails to satisfy the Continuing Professional Development requirements in OAR 820-010-0635 will be subject to suspension of or refusal to renew the registrant's license. Failure to satisfy the Continuing Professional Development requirements will not be the sole basis for license revocation.
Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325

820-020-0015

Registrants or Applicants for Registration or Certification Shall Hold Paramount the Safety, Health and Welfare of the Public in the Performance of their Professional Duties

(1) Registrants shall at all times recognize that their primary obligation is to protect the safety, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the safety, health, property or welfare of the public are endangered, they shall notify their employer or client and such other authority as may be appropriate.

(2) Registrants shall approve and seal only those design documents and surveys which are safe for public health, property and welfare in conformity with accepted engineering and land surveying standards.

(3) Registrants shall not reveal facts, data or information obtained in a professional capacity without the prior consent of the client, or employer except as authorized or required by law.

(4) Registrants shall not permit the use of their name or firm name nor associate in business ventures with any person or firm which they have reason to believe is engaging in fraudulent or dishonest business or professional practices.

(5) Registrants or applicants for registration or certification having knowledge of any alleged violation of any of these Rules of Professional Conduct, shall cooperate with the Board in furnishing such information or assistance as may be required.

(6) Conviction of a felony without restoration of civil rights, or the revocation or suspension of the license of a registrant in another jurisdiction, if for a cause which in the State of Oregon would constitute a violation of ORS 672.020 to 672.310 or of these rules, shall be grounds for a charge of violation of these rules.

(7) Registrants shall continue their professional development throughout their careers; and they shall provide opportunities for the professional development of individuals under their supervision. The Board may require, as a condition for license renewal, that registrants provide documentation to support actions taken to maintain their professional competency.

(8) Registrants or applicants for registration or certification shall cooperate with the Board on all matter subject to the Board's jurisdiction.

(9) Registrants must apply a seal of the type, kind, size and wording, and affix their signature as required by OAR 820-010-0620.

(10) Registrants must affix a seal and sign any final document prepared under their supervision and control. Any document not clearly marked as a preliminary document under OAR 820-010-0621(2) is a final document that must bear the seal and signature of the registrant under whose supervision and control the document was prepared.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

820-020-0025

Obligation of Registrants and Applicants to Issue Statements only in an Objective and Truthful Manner

(1) Registrants and applicants must be objective and truthful and include all relevant and pertinent information in all professional reports, statements or testimony, applications for registration and enrollment as an intern, and references on applications for registration and enrollment.

(2) Registrants may express a professional opinion on technical subjects only when that opinion is founded upon adequate knowledge of the facts and the registrant is competent in the subject matter.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

820-020-0030

Obligation of Registrants and Applicants to Act in Professional Matters for Each Employer or Client as Faithful Agents or Trustees, and to Avoid Conflicts of Interest

(1) For purposes of this section, "applicant" means an applicant who is registered in another jurisdiction.

(2) Registrants and applicants for registration or certification must disclose all known or potential conflicts of interest to their employers or clients by promptly informing them, in writing, of any business association, interest, or other circumstances that could influence their judgment or the quality of their services. For purposes of this rule, a "conflict of interest" includes, but is not limited to, an interest in any property or any other thing of value that is related in any way to or potentially affected by the services that the registrant provides.
(3) A registrant or applicant for registration or certification may not accept any item of value, including any forgiveness of debt, directly or indirectly, from a person other than the individual's employer or client for services offered or performed for the employer or client, unless the individual makes full written disclosure and the individual employer or client consents in writing.
(4) A registrant or applicant for registration or certification who is a member, advisor or employee of a governmental body shall not participate in decisions made by that governmental body with respect to professional services solicited from or provided by that individual or a business or firm that employs the individual or in which the individual holds an ownership interest and through which the individual offers or provides professional services.
(5) A registrant or applicant for registration or certification may not solicit or accept employment or a contract for professional services from a governmental body for which that individual's associate is a member or officer unless the individual discloses all pertinent facts and circumstances of the individual's relationship to the individual's associate and the governmental body provides written consent. For purposes of this rule, an "individual's associate" refers to an individual's employer or an owner or officer of a business or firm that employs the individual or in which the individual holds an ownership interest and through which the individual offers or provides professional services.
Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325

820-020-0035
Obligation of Applicants or Registrants to Avoid Improper Solicitation of Professional Employment
(1) An applicant or registrant may not falsify or permit misrepresentation of the academic or professional qualifications of the applicant or registrant, another registrant, or a registrant's associate. For purposes of this rule, a "registrant's associate" refers to a registrant's employer or an owner or officer of a business or firm that employs the registrant or in which the registrant holds an ownership interest and through which the registrant offers or provides professional services.
(2) An applicant or registrant may not misrepresent or exaggerate the responsibility for performance of prior assignments by the applicant or registrant, by any other registrant, or by a registrant's associate.
(3) An applicant who is registered in another jurisdiction or a registrant may not offer, give, solicit or receive, either directly or indirectly, any commission or gift or other valuable consideration in order to secure work.
(4) An applicant who is registered in another jurisdiction or a registrant may not make any political contribution intended to influence the award of a contract by a governmental body.
Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325

820-040-0005
Definitions
The following definitions and guides have been adopted by the Board to assist registrants and the general public in their interpretation of specific portions of ORS 672.002 to 672.325.
(1) As used in ORS 672.060(10) and 672.107(1)(a)(B), "Ground Area" is defined as any projected or suspended occupied areas above the ground level in combination with areas in contact with the ground. Measurements in determining the ground area shall be taken from outside wall to outside wall and include the sum of the areas of all additions and the area of the original structure. The ground area of a building,

or portion thereof, not provided with surrounding exterior walls is the usable area under the horizontal projection of the roof or floor above.
(2) As used in ORS 672.060(11) and 672.107(1)(a)(B), "Height" is measured from the top surface of the lowest flooring to the highest interior overhead finish of the structure in determining whether a building exceeds the 20-foot height limitation. A basement floor is considered the lowest flooring when useable (i.e., storage, garage, etc.).
(3) As used in ORS 672.107(1)(a)(D), the height of a structure is defined as the vertical dimension from the average ground level to the average roof height for sloped roofs or parapet height for flat roofs. In multi-level structures, utilize the upper roof only to determine the dimension.
(4) As used in ORS 672.060(10) and (11), "Appurtenance" means a separate structure that:
(a) Is subordinate to a single family residential dwelling, farm building, or building less than 4,000 square feet in ground area or 20 feet in height;
(b) Is itself no greater than 4,000 square feet in floor area; and,
(c) Is located on the same lot as the structure to which it is subordinate.
(d) "Appurtenance" includes but is not limited to:
(A) A retaining wall less than four feet in height, with level backfill, and not supporting any structure;
(B) Signage less than 15 feet in height and 50 square feet;
(C) Fences less than 12 feet in height;
(D) A carport, cabana, playhouse, or garden structure, no more than 20 feet in height and with vertical and horizontal structural elements primarily formed by a system of conventional, repetitive, wood or cold-formed steel framing members, and a maximum roof span of 30 linear feet. For the purposes of this subsection, "Height" is measured from the top surface of the lowest flooring to the highest interior overhead finish of the structure in determining whether a building exceeds the 20-foot height limitation. A basement floor is considered the lowest flooring when useable (e.g., for storage, living space, appliances, etc.).
(e) "Appurtenance" does not include a single family residential dwelling, farm building, or building less than 4,000 square feet in ground area or 20 feet in height.
(5) "Professional service" or "professional services," as used in ORS 672.005, means providing labor that does not produce a tangible commodity, but that requires a high level of training and proficiency.
Stat. Auth.: ORS 670.310, 672.060, 672.107 & 672.255
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