

Chapter 809 Board of Geologist Examiners

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DIVISION 1

PROCEDURAL RULES

809-001-0000 Notice

Before adoption, amendment, or repeal of any permanent rule, the State Board of Geologist Examiners shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action;

(2) By mailing a copy of the notice to persons on the State Board of Geologist Examiners mailing list established under ORS 183.335(8);

(3) By mailing or furnishing a copy of the notice to:

(a) The Associated Press;

(b) Association of Engineering Geologists;

(c) Department of Geology and Mineral Industries;

(d) Department of Geology, Oregon State University;

(e) Department of Geology, University of Oregon;

(f) Department of Geology, Portland State University;

(g) Capitol Press Room;

(h) Earth and Physical Science Department, Western Oregon University; and

(i) Department of Geology, Southern Oregon University.

Stat. Auth.: ORS 183, 192, 670.310(1) & 672

Stats. Implemented: ORS 183.335

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 1-1982, f. & ef. 5-14-82; GE 1-1983, f. & ef. 2-17-83; GE 1-1984, f. & ef. 2-1-84; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 3-2004, f. & cert. ef. 6-23-04; BGE 4-2012, f. 12-13-12, cert. ef. 12-21-12

809-001-0005

Model Rules of Procedure

The Attorney General’s Model Rules of Procedure under the Administrative Procedures Act, in effect on February 1, 2012, are hereby adopted as the rules of procedure by reference for the State Board of Geologist Examiners.

Stat. Auth.: ORS 183, ORS 672.505 - 672.705
 Stats. Implemented: ORS 672.505 - 672.705

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 1-1982, f. & ef. 5-14-82; GE 1-1984, f. & ef. 2-1-84; GE 3-1986, f. & ef. 7-15-86; EE 1-1996, f. & cert. ef. 8-30-96; GE 1-1996, f. & cert. ef. 8-30-96; BGE 2-1999, f. & cert. ef. 11-8-99; BGE 1-2000, f. & cert. ef. 8-3-00; BGE 2-2004, f. & cert. ef. 4-6-04; BGE 4-2004, f. & cert. ef. 6-23-04; BGE 2-2012, f. & cert. ef. 6-15-12

809-001-0010

Election of Officers

The Board may elect a Board Chairman and Vice Chairman once a year at the first board meeting held after July 1.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84

809-001-0015

Charges for Copies and Documents

(1) All requests shall be submitted in writing for copies of public records pertaining to the Board of Geologist Examiners and available at the Board’s office.

(2) The Board of Geologist Examiners charges fees as follows to reimburse it for the actual cost in making public records available upon request:

- (a) Photocopies (single or double sided) — \$.25 per side;
- (b) Public records sent via facsimile — \$5.00 1st page, \$1.00 per page thereafter;
- (c) Diskette — 3 1/2 inch — \$1.00 each;
- (d) Audio Cassette — 90 minute — \$1.00 each;
- (e) Video Cassette — 2 hour — \$2.00 each;
- (f) Postage/freight — First Class or bulk rate based on weight for public records mailed or sent by carrier.

(3) The Board of Geologist Examiners charges a fee of \$25 per hour for staff time required to summarize, compile, or tailor public records to meet a request for public records. This rate is reasonably calculated to reimburse the Board for actual cost of staff time.

(4) Charges to the general public shall be payable in cash. Charges to state agencies shall be payable in cash unless billing to such agencies is authorized by the administrator.

(5) The Administrator of the Board of Geologist Examiners may furnish copies of public records without charge or at a reduced fee if the Administrator determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 1-2002, f. & cert. ef. 2-6-02

809-001-0035

Confidentiality and Inadmissibility of Mediation Communications

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the “mediator” in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in

ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) **Mediations Excluded.** Sections (6)–(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency’s employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential; or

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) **Disclosures by Mediator.** A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)–(d), (j)–(l) or (o)–(p) of section (9) of this rule.

(7) **Confidentiality and Inadmissibility of Mediation Communications.** Except as provided in sections (8)–(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) **Written Agreement.** Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties’ agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an “agreement to mediate.” [Form not included. See ED. NOTE.]

(9) Exceptions to confidentiality and inadmissibility.

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to

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report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Oregon State Board of Geologist Examiners determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 17.095 or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 36.224 & 670.310

Stats. Implemented: ORS 36.220 - 36.238

Hist.: BGE 1-2004(Temp), f. & cert. ef. 4-6-04 thru 10-3-04; BGE 5-2004, f. & cert. ef. 6-23-04

DIVISION 3

DEFINITIONS

809-003-0000

Definitions

The definitions of terms used in ORS 672.505 to 672.991, and the rules of this OAR chapter 809, are:

(1) "ASBOG": National Association of State Boards of Geology; an organization of state boards that regulate the public practice of geology; ASBOG prepares the national geology examinations.

(2) "Deceit": An attempt to portray as true or valid something that is untrue or invalid.

(3) "Equivalent of 45 quarter hours": 30 semester hours.

(4) "Expert Opinion": An opinion tendered to a court, commission, hearings officer, or other tribunal which is considered to be expert testimony by virtue of the professional experience, training, and registration and certification of the geologist tendering the opinion.

(5) "Falsely Impersonate": To assume without authority or with fraudulent intent the identity of another person.

(6) "False or Forged Evidence": Untrue documents purporting to be proof, or falsely and fraudulently altered proof.

(7) "Felony": A crime declared a felony by statute because of the punishment imposed.

(8) "Fraud": Intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right.

(9) "Geological Work": For purposes of ORS 672.505(11), "geological work" means the public practice of geology as defined at 672.505(7) or that would otherwise require registration or certification by the Board if not exempted under 672.525 or 672.535, regardless of whether the work is conducted in or outside of Oregon.

(10) "Gross Negligence": Reckless and wanton disregard for exercising care and caution.

(11) "Incompetence": Inadequacy or unsuitability for effective action. The Board shall consider incompetence in the practice of geology to include, but not be limited to instances where a geologist has been adjudicated mentally incompetent by the court; been engaged in conduct which shows a lack of ability or fitness to discharge the duties and responsibilities a geologist owes a client, employer, or the general public; or been engaged in conduct which shows a lack of knowledge, or inability, to apply the principles or skills of the profession.

(12) "Misconduct": Violation of any state or federal rule or statute in the course of the practice of geology.

(13) "Mutual Recognition": When one state allows a geologist who is registered in another state to perform work in that state without obtaining local registration.

(14) "National examination": prepared by ASBOG and comprised of a four-hour fundamental section and a four-hour practice section.

(15) "Neglect of Duty": Lack of attention to the performance or services that arise from one's position.

(16) "Negligence": Failure by a registrant to exercise the care, skill, and diligence demonstrated by a registrant under similar circumstances in the community in which the registrant practices.

(17) "Official Transcript": Transcript certified by the school and received under seal.

(18) "Project": A contractually specified scope and amount of geologic work relating to a specific undertaking, such as, but not limited to, the geologic reconnaissance of an area, a geohydrologic study of an area, or an analysis of volcanic hazards from a volcano.

(19) "Proprietary": Belonging to a client, employer or geologist.

(20) "Public proceeding": as used in ORS 672.525(9) means a public forum where members of the public are invited to comment or testify or permitted to comment or testify.

(21) "Reciprocity": When one state will issue a registration to a geologist because the geologist holds a registration in another state.

(22) "Reinstatement of Registration": One-time process to bring a lapsed registration or certification to current, valid status.

(23) "Related Geological Science": A course of study that includes at least 36 quarter hours, or the equivalent, in geological subjects taken in the third or fourth year or in graduate courses.

(24) "Renewal of Registration": Annual process to maintain the current status of a valid registration or certification.

(25) "Responsible Charge": This means in responsible charge of work as defined in ORS 672.505(11) and under these rules.

(26) "Seal": The term seal means the same thing as to stamp as used within OAR Chapter 809.

(27) "Supervision of Geological Work": For purposes of ORS 672.505(11), "supervision" means oversight by an individual who is fully responsible, accountable and liable for the geological work and where the individual is:

- (a) Registered as a geologist in Oregon;
- (b) Certified as an engineering geologist in Oregon;
- (c) Registered as a geologist in another jurisdiction with licensing requirements comparable to Oregon; or
- (d) In charge of the geological work in a situation or another jurisdiction that does not require licensure.

(28) "Third or Fourth Year": Upper division college classes.

(29) "Threat to the Public Health, Welfare, or Property": A threat of geologic nature such as, but not limited to, induced or imminent instability of a slope, exacerbation of or continuation of a high rate of erosion, flood hazard or land subsidence, ongoing or potential contamination of underground or surface waters. Also a potential threat which would be induced by an action taken in ignorance of, or without regard to geologic conditions such as construction of residences or other structures intended for habitation in areas prone to landslides, mudflows, volcanic eruption, tsunamis, or earthquakes without proper mitigation measures, or construction of dams or other waterworks, bridges, power plants or other critical facilities without exhaustive investigation of potential geologic hazards and incorporation of approved mitigation measures into their design.

(30) "Year of Study": 36 quarter hours or 24 semester hours.
Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605
Stats. Implemented: ORS 672.505 - 672.705
Hist.: GE 1-1984, f. & ef. 2-1-84; GE 3-1984, f. & ef. 12-4-84; GE 4-1984, f. & ef. 12-18-84; GE 1-1985, f. & ef. 7-1-85; BGE 2-1999, f. & cert. ef. 11-8-99; BGE 2-2002, f. & cert. ef. 4-15-02; BGE 9-2004, f. & cert. ef. 10-19-04; BGE 3-2006, f. & cert. ef. 11-13-06; BGE 1-2012, f. & cert. ef. 6-15-12

DIVISION 5

CERTIFICATION OF SPECIALTY

809-005-0000

Certification for Engineering Geology

(1) The State Board of Geologist Examiners establishes certification in the specialty of engineering geology consisting of those practices defined in ORS 672.505(3).

(2) The engineering geology specialty shall be maintained concurrently with the geologist registration.

(3) To be certified as an engineering geologist, the geologist shall pass appropriate examination(s) and pay the required fees.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 1-2002, f. & cert. ef. 2-6-02

809-005-0005

Certification for Geologist-in-Training

To be certified as a geologist-in-training, the person shall pass an examination and pay the required fees.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1990, f. & cert. ef. 10-2-90; BGE 1-2002, f. & cert. ef. 2-6-02

DIVISION 10

FEES

809-010-0001

Fees

Fees, as established by the Board of Geologist Examiners, are:
Examinations

(1) Fundamental Section of the national examination for Geologist registration — an amount equal to the actual cost of purchasing this portion of the exam from ASBOG.

(2) Practice Section of the national examination for Geologist registration — an amount equal to the actual cost of purchasing this portion of the exam from ASBOG.

(3) Examination for Engineering Geologist certification — \$200.00.

(4) Manual rescoring or proctored review:

(a) For ASBOG manual rescoring request only — an amount equal to the actual cost charged by ASBOG for this service;

(b) For ASBOG proctored review request only — an amount equal to the actual cost charged by ASBOG for this service; and

(c) In addition to (a) & (b) and for all Certified Engineering Geology exam-related requests, an amount payable to the Board for the actual administrative costs of providing the service, including any costs for staff or Board member time, copies, postage, and other processing costs, up to a maximum of \$100.00 payable to the Board per request.

Registration and Renewal

(5) Geologist-in-Training initial registration and annual renewal — \$50.00.

(6) Geologist initial registration and annual renewal — \$100.00.

(7) Engineering Geologist initial certification and annual renewal — \$75.00. Engineering Geologist must have a current Geologist registration.

(8) Duplicate or replacement of lost, destroyed, or mutilated registration card — \$25.00; duplicate or replacement of lost, destroyed, or mutilated wall certificate — \$25.00.

(9) Restoration fee if postmarked:

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- (a) One to ninety days after due date: \$25.00;
 - (b) Ninety-one to one-hundred seventy-nine days after due date: \$50;
 - (c) Over one-hundred seventy-nine days after due date: \$100.
- (10) Renewal of registration by Geologist, if applicant is 70 years of age or over by renewal date — \$15.00.

(11) Renewal of certification by Engineering Geologist, if applicant is 70 years of age or over by renewal date — \$15.00.

Miscellaneous

(12) Application Fee — \$75.00. This fee is to accompany any application for registration or examination and any reapplication for examination.

(13) Temporary Permit Fee — \$100.00. This fee is to accompany any notification per 672.545(3)(b).

(14) File Maintenance Fee — \$25.00 per request. This fee is to cover maintaining examination files for passing examinees who do not register in Oregon.

(15) Fee for a list of all registrants — \$50.00.

Stat. Auth.: ORS 182.466, 670.310 & 672.705

Stats. Implemented: ORS 672.705

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 2-1979, f. 10-2-79, ef. 10-3-79; GE 1-1981, f. & ef. 8-3-81; GE 1-1982, f. & ef. 5-14-82; GE 2-1983(Temp), f. 10-14-83, ef. 11-1-83; GE 1-1984, f. & ef. 2-1-84; GE 1-1985, f. & ef. 7-1-85; GE 2-1986, f. & ef. 3-5-86; GE 1-1989, f. 12-18-89, cert. ef. 1-1-90; GE 1-1993(Temp), f. 3-1-93, cert. ef. 3-2-93; GE 2-199; GE 2-1996, f. & cert. ef. 8-30-96; BGE 1-1999, f. & cert. ef. 6-17-99; BGE 2-2001, f. & cert. ef. 3-23-01; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 3-2002, f. & cert. ef. 7-9-02; BGE 6-2004, f. & cert. ef. 8-5-04; BGE 2-2005, f. & cert. ef. 9-28-05; BGE 3-2005, f. & cert. ef. 12-7-05; BGE 2-2007, f. 6-25-07, cert. ef. 7-1-07; BGE 1-2011, f. 6-21-11, cert. ef. 7-1-11; BGE 2-2013, f. & cert. ef. 9-24-13

809-010-0025

Operating Budget

The Oregon State Board of Geologist Examiners hereby adopts by reference the 2013–2015 Biennial Budget of \$557,159 covering the period from July 1, 2013, and ending June 30, 2015. With Board approval, the Administrator of the Board may amend budgeted accounts as necessary within the approved budget of \$557,159 for the effective operation of the Board. The Board will not exceed the approved 2013–2015 Biennium Budget unless registrants are notified, a public hearing is convened, and this rule is amended as required by ORS Chapter 182.462(1)(2). Copies of the budget are available from the Board's office.

Stat. Auth.: ORS 672.705, 182.462, & 670.310

Stats. Implemented: ORS 672.505 & 182.462

Hist.: BGE 1-1999, f. & cert. ef. 6-17-99; BGE 1-2001, f. & cert. ef. 3-23-01; BGE 2-2003, f. 6-13-03, cert. ef. 7-1-03; BGE 1-2005, f. & cert. ef. 8-15-05; BGE 2-2007, f. 6-25-07, cert. ef. 7-1-07; BGE 1-2009, f. 6-15-09, cert. ef. 7-1-09; BGE 1-2011, f. 6-21-11, cert. ef. 7-1-11; BGE 4-2012, f. 12-13-12, cert. ef. 12-21-12; BGE 1-2013, f. 6-3-13, cert. ef. 7-1-13

DIVISION 15

RENEWALS, RESTORATIONS

809-015-0000

Renewal

(1) Certificate of registration expires as follows:

(a) For a Geologist-in-Training, the last day of the anniversary month of the initial date of issuance;

(b) For a Registered Geologist, the last day of the anniversary month of the initial date of issuance;

(c) For a Certified Engineering Geologist, when the anniversary date is other than the renewal date for geologist registration, shall pay an initial prorated fee so the specialty renewal date will then become the same date as the geologist registration renewal date.

(2) A certificate of registration must be renewed and the renewal fee paid before the date specified in section one of this rule.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented: ORS 672.585

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 3-1978(Temp), f. & ef. 12-15-78; GE 1-1981, f. & ef. 8-3-81; GE 1-1984, f. & ef. 2-1-84; Renumbered from 809-010-0005; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 4-2005, f. & cert. ef. 12-14-05

809-015-0005

Restoration

(1) An expired registration may be reinstated within five years without reapplication or retaking of an examination.

(2) To reinstate an expired registration, a Registered Geologist, Certified Engineering Geologist, or Geologist-in-Training must pay:

(a) The applicable annual registration fees for all years in which the registration was expired;

(b) The annual renewal fee for the current year; and

(c) The applicable restoration fee.

(3) A restoration fee is required to reinstate an expired registration.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented: ORS 672.585

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 3-1978(Temp), f. & ef. 12-15-78; GE 1-1981, f. & ef. 8-3-81; GE 1-1984, f. & ef. 2-1-84; GS 1-1988, f. 11-18-88, cert. ef. 12-1-88; BGE 4-2005, f. & cert. ef. 12-14-05

809-015-0010

Nonrestoration

(1) After five years, a registration expires.

(2) A person with an expired registration must apply as a new applicant and pass national exams or apply by cooperative licensure if eligible. (See 809-050-0010.)

(3) When the certificate number of a registrant expires, upon reapplication and/or passing the examination, the original certificate number shall not be reinstated.

Stat. Auth.: ORS 183, 192, 672

Stats. Implemented: ORS 183.341, 183.355, 183, 192, 672

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 3-1978(Temp), f. & ef. 12-15-78; GE 1-1981, f. & ef. 8-3-81; GE 1-1984, f. & ef. 2-1-84; GE 1-1990, f. & cert. ef. 10-2-90; BGE 2-1999, f. & cert. ef. 11-8-99; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 1-2007, f. & cert. ef. 3-14-07

809-015-0015

Geologist-in-Training

Geologist-in-training registration will be issued on a year to year basis or until the registrant becomes a Registered Geologist.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented: ORS 183.341, 183.355, 183, 192 & 672

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 3-1978(Temp), f. & ef. 12-15-78; GE 1-1981, f. & ef. 8-3-81; GE 1-1984, f. & ef. 2-1-84; BGE 2-1999, f. & cert. ef. 11-8-99; BGE 2-2002, f. & cert. ef. 4-15-02

809-015-0020

Reissuance of Revoked Registration

At its discretion, the Board may reissue a revoked certificate of registration according to ORS 672.685 under the following conditions:

(1) Submission of a written request for reissuance by the revoked registrant;

(2) Receipt of written documentation demonstrating good cause to justify the reissuance;

(3) Submission of all application materials meeting the requirements for first-time registrants as prescribed in Qualification Standards and Experience, OAR 809-30-0000 through 809-30-0025, and all relevant registration and application fees as prescribed in Fees, OAR 809-010-0001;

(4) Take or retake and pass the ASBOG fundamental and practice examinations, and specialty examinations as applicable.

Stat. Auth.: ORS 672.515, 672.685

Stats. Implemented: ORS 672.505-672.705

Hist.: BGE 1-2012, f. & cert. ef. 6-15-12

DIVISION 20

CODE OF PROFESSIONAL CONDUCT

809-020-0001

Goals

(1) A geologist shall be guided by the highest standards of ethics, honesty, integrity, fairness, personal honor, and professional conduct.

(2) To the fullest extent possible, a geologist shall protect the public health and welfare and property in carrying out professional duties.

Stat. Auth.: ORS 672
 Stats. Implemented:
 Hist.: GE 4-1984, f. & ef. 12-18-84

809-020-0006

Responsibility to Profession

(1) A Registered Geologist shall undertake professional service or render expert opinion only when qualified by training or experience in the technical areas involved.

(2) When serving as an expert or technical witness before a court, commission, or other tribunal, a Registered Geologist shall express only those opinions founded upon adequate professional knowledge of the matters at issue.

(3) A Registered Geologist shall sign and seal only professional work, including, but not limited to, maps and report for which the geologist has direct professional knowledge, and for which the geologist intends to be responsible for its accuracy and adequacy.

(4) A Registered Geologist shall not take credit for work conducted by others. When using the results of other geologists' work in the performance of the practice of geology, a geologist shall give due credit to the other geologists by citation or acknowledgement. Work of other geologists which is proprietary, or was not intended to be made generally available, shall not be used without the permission of the other geologist. Nothing in this paragraph prohibits any person from sending the work of any geologist or the work of any person publicly practicing geology in Oregon to the Board.

(5) A Registered Geologist shall not knowingly make false statements or misrepresentations, or permit the publication or use of the geologist's name or work in association with any fraudulent activities.

(6) A Registered Geologist shall make full disclosure to all parties concerned of any conflict of interest in projects or properties on which the geologist performs work.

(7) If a Registered Geologist has knowledge or reasonable cause to believe another person or geologist is in violation of the registration law, ORS Chapter 672, or the related administrative rules, the geologist shall present such information to the Oregon Board of Geologist Examiners, in writing.

(8) If a Registered Geologist's professional judgment is overruled or not adhered to under circumstances where the geologist has reasonable cause to believe there is a clear and present threat to the public health or welfare or property, the geologist shall immediately notify the client/employer. If the client/employer does not take appropriate action within a reasonable amount of time under the circumstances, the geologist shall notify in writing the agency of local government having jurisdiction, or in the case of state/federal property the state/federal agency having land management responsibility, and the Board of the nature of the public threat.

Stat. Auth.: ORS 672
 Stats. Implemented:
 Hist.: GE 4-1984, f. & ef. 12-18-84; BGE 1-2002, f. & cert. ef. 2-6-02

809-020-0011

Responsibility to Employer

(1) A geologist shall avoid conflict of interest with a client/employer and shall disclose the circumstances to the client/employer if a conflict is unavoidable.

(2) A geologist shall not, during the time of the geologist's retention or employment by a client/employer, use information developed for, or the resources of, said client/employer for private gain or in any other manner that may conflict with the client/employer's interest without the knowledge and consent of the client/employer, except as specified in OAR 809-020-0006(8) Responsibility to Profession. In the case of a former client/employer, a geologist shall honor agreements with that former client/employer with regard to proprietary information, except as specified by OAR 809-020-0006(8).

(3) A geologist shall either engage or advise a client/employer to engage other experts or specialists if the client/employer's interests are best served by such service.

(4) A geologist shall give due notice of withdrawal of service from a client/employer. Due notice shall be either 30 days or a time mutually agreed to by the geologist and the client/employer, whichever is less. However, a geologist may withdraw from service without due notice if:

(a) The geologist fails to receive compensation, or has reasonable cause to believe that compensation for services performed will not be received;

(b) The geologist knows, or has reasonable cause to believe, that continued employment will result in a violation of this Code, ORS Chapter 672, the related administrative rules, or will otherwise be illegal;

(c) The geologist knows, or has reasonable cause to believe, that the client/employer is involved in illegal or fraudulent practices, or practices dangerous to the public health, and welfare and property;

(d) The geologist knows, or has reasonable cause to believe, that continued employment will result in sickness or injury to the geologist or the geologist's dependents.

(5) A geologist shall not accept compensation concurrently from more than one client/employer on a project, unless the circumstances of payment are fully disclosed and agreed to by all financially interested parties.

Stat. Auth.: ORS 672
 Stats. Implemented:
 Hist.: GE 4-1984, f. & ef. 12-18-84

809-020-0025

Responsibility to the Board

(1) A geologist, when requested by the Board, shall respond to communications from the Board within 21 days after notification is mailed by registered or certified mail.

(2) A geologist, when requested by the Board, shall present information and assistance to the Board in pursuing violations of laws and rules relating to the practice of geology in the State of Oregon. A geologist shall not dismiss from his employment, or take any other sanction against another geologist because of the other geologist's compliance with this, or any other subsection, of the Code of Professional Conduct, ORS Chapter 672, or the related administrative rules.

Stat. Auth.: ORS 672
 Stats. Implemented:
 Hist.: GE 3(Temp), f. & ef. 12-14-77; GE 1-1978, f. & ef. 3-9-78; GE 4-1984, f. & ef. 12-18-84; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 1-2007, f. & cert. ef. 3-14-07

809-020-0030

Misconduct

Any violation of the Code of Professional Conduct is misconduct under OAR 809-003-0000(12) and is grounds for discipline under ORS 672.675(2) and the assessment of civil penalties under 672.690(1). Misconduct under OAR 809-003-0000(12) also includes, but is not limited to, any of the following acts committed in connection with or related to the public practice of geology:

(1) Signing or stamping work not prepared under the direct supervision or control of the registered geologist;

(2) Offering or accepting gifts (other than those of nominal value, such as entertainment or hospitality), with the intent of influencing the judgment of a client, prospective client, government official, or another geologist in connection with a project, or employment, in which the registered geologist is to be retained or has a financial interest;

(3) Fraud, deceit, misrepresentation, false impersonation, false or forged evidence, or a felony conviction;

(4) Practicing geology while impaired by alcohol or other drugs;

(5) Engaging in false, misleading or deceptive advertising;

(6) Negligence, gross negligence, or incompetence.

Stat. Auth.: ORS 672
 Stats. Implemented:
 Hist.: GE 4-1984, f. & ef. 12-18-84; BGE 3-2012, f. 12-13-12, cert. ef. 12-21-12

DIVISION 30

QUALIFICATION STANDARDS AND EXPERIENCE

809-030-0000

Supervision Standards

To determine if an applicant's supervision meets the required qualifications, the Board may use the following standards:

- (1) The direction, closeness, or continual attention the supervisor has over the applicant's geologic work.
- (2) The percentage of time the applicant's work was supervised.
Stat. Auth.: ORS 183, 192 & 672
Stats. Implemented:
Hist.: GE 2-1978, f. & ef. 7-28-78; GE 1-1984, f. & ef. 2-1-84

809-030-0005

Experience Standards

To determine if an applicant's experience meets the required qualifications, the Board may use the following standards:

- (1) The diversity and complexity of the applicant's work.
- (2) Whether the work was routine in nature, requiring a minimum of knowledge or experience.
- (3) The amount of time the applicant was in responsible charge of geologic work.
- (4) Whether reports prepared principally by the applicant demonstrate the applicant's knowledge to perform geologic work.
Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605
Stats. Implemented: ORS 672.505 - 672.705
Hist.: GE 2-1978, f. & ef. 7-28-78; GE 1-1981, f. & ef. 8-3-81; GE 1-1982, f. & ef. 5-14-82; GE 1-1984, f. & ef. 2-1-84; BGE 1-2012, f. & cert. ef. 6-15-12

809-030-0010

Transcript Standards

Applicants shall submit an official transcript for review by the Board.

- Stat. Auth.: ORS 193, 192 & 672
- Stats. Implemented:
- Hist.: GE 1-1983, f. & ef. 2-17-83; GE 1-1984, f. & ef. 2-1-84

809-030-0015

Qualifications for Geologist Practice Examination and Geologist Registration

- (1) To qualify to take the geologist examination, an applicant must have a minimum of seven years of geology experience computed as follows:
 - (a) Two years of experience are granted for an undergraduate degree in geology or a related geological science with a minimum of 45 quarter hours of geology coursework; or two years of experience are granted to applicants without a degree who have a minimum of 45 quarter hours of geology coursework including 36 quarter hours upper division or graduate course hours leading to a geology major. These two years' experience must be included in the seven-year minimum.
 - (b) One year of experience, up to a maximum of three years, is granted for each year of full-time equivalent graduate study in geology or a related geological science.
 - (c) Credit shall not exceed four years for the undergraduate geology or geological science degree or specific coursework plus graduate study.
 - (d) One year of experience is granted for each year spent working under the supervision of an Oregon registered geologist, Oregon certified engineering geologist, or a geologist who, in the determination of the Board, was providing supervision in responsible charge; however, a minimum of three years of such experience must be completed before any credit is granted.
 - (e) One year of experience is granted for each year spent in responsible charge; however, a minimum of five years in responsible charge must be completed before any credit is granted.
 - (f) Geology faculty may acquire the seven years experience in accordance with the following criteria:
 - (A) Meet the requirements of OAR 809-030-0015(1)(a); and
 - (B) Five years experience is granted for geologic work conducted in responsible charge as professional faculty activities con-

ducted other than teaching or administrative duties. Such duties may include, but are not limited to, the following:

- (i) Geologic report preparation;
- (ii) Publication and the preparation for publication of published geologic work;
- (iii) Geologic field or laboratory data collection; or
- (iv) Geologic data analysis or interpretation.
- (C) Geologic experience must be documented and calculated as a percentage of non-teaching full-time experience such as follows:
 - (i) Experience documented by the preparation of geology reports or publications; and
 - (ii) Geologic experience verified by the Board.
- (D) Post-baccalaureate research in geology or a related geological science may be granted for in responsible charge experience, at the discretion of the Board.
 - (g) Duplicate credit will not be given for experience and education gained concurrently.
 - (h) Experience of less than one month will not be recognized.
- (2) Applicants for the ASBOG practice examination must:
 - (a) Be registered as a GIT in Oregon; or
 - (b) Apply to take the ASBOG fundamental examination on the same day as the practice examination; or
 - (c) Provide to the Board proof of having passed the ASBOG fundamental examination.
- (3) To qualify for registration as a geologist, an applicant must meet the following requirements:
 - (a) Pass the ASBOG fundamental and practice examinations;
 - (b) Submit a complete application on forms provided by the Board;
 - (c) Submit applicable fees as per OAR 809-010-0001.
Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605
Stats. Implemented: ORS 672.505 - 672.705
Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1992, f. & cert. ef. 6-10-92; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 7-2004, f. & cert. ef. 8-5-04; BGE 1-2012, f. & cert. ef. 6-15-12

809-030-0020

Qualifications for Engineering Geologist Examination and Certification as an Engineering Geologist

- (1) To qualify to take the certification examination as an engineering geologist, the applicant must:
 - (a) Be registered as a geologist, or have met the qualifications and passed the geologist examination.
 - (b) Meet one of the following experience requirements:
 - (A) Three years' experience under the direct supervision of an Oregon, California, or Washington certified engineering geologist or an engineering geologist who, in the determination of the Board, was providing supervision in responsible charge. Engineering geology experience used to meet geologist qualifications may be used;
 - (B) Five years' experience in responsible charge of engineering geological projects. Engineering geology experience used to meet geologist qualifications may be used; or
 - (C) A minimum of 5 years work experience from a combination of (A) and (B). Engineering geology experience used to meet geologist qualifications may be used.
- (2) To qualify for certification as an engineering geologist, an applicant must meet the following requirements:
 - (a) Receive registration as geologist from the Board;
 - (b) Pass a certification examination approved by the Board for engineering geologists as per OAR 809-005-0000 and 809-040-0008;
 - (c) Submit a complete application on forms provided by the Board;
 - (d) Submit applicable fees as per OAR 809-010-0001.
Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605
Stats. Implemented: ORS 672.505 - 672.705
Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 1-2012, f. & cert. ef. 6-15-12

809-030-0025

Qualifications for Geologist Fundamentals Examination and Certification as a Geologist-in-Training

- (1) To qualify to take the geologist fundamentals examination, an applicant shall:

(a) Have an undergraduate degree in geology, geological sciences, or earth science from an accredited college or university; or
 (b) Have completed the equivalent of 45 quarter hours of geology coursework as outlined in (2) from an accredited college or university.

(2) All applicants must have the equivalent of 45 quarter hours of qualifying geologic coursework of which at least 80% of the qualifying 45 quarter hours presented in the official transcript of the applicant must include upper division coursework from the following list or substitutions approved by the Board:

- (a) Coastal processes;
- (b) Economic geology;
- (c) Engineering geology;
- (d) Environmental geology;
- (e) Geochemistry;
- (f) Geology field camp;
- (g) Geology field methods;
- (h) Geomorphology;
- (i) Geophysics;
- (j) Geostatistics;
- (k) Glacial geology;
- (l) Historical geology;
- (m) Hydrogeology;
- (n) Lithology;
- (o) Marine geology;
- (p) Mineral exploration;
- (q) Mineralogy;
- (r) Paleopedology/ Paleosols;
- (s) Petrography;
- (t) Petroleum geology;
- (u) Petrology;
- (v) Planetology;
- (w) Remote sensing;
- (x) Rock mechanics;
- (y) Sedimentology;
- (z) Seismology;
- (aa) Stratigraphy;
- (bb) Structural geology;
- (cc) Tectonics;
- (dd) Volcanology.

Stat. Auth.: ORS 183 & 672.505 - 672.991

Stats. Implemented: ORS 672.555

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1985, f. & ef. 7-1-85; GE 1-1990, f. & cert. ef. 10-2-90; BGE 1-2006, f. & cert. ef. 3-17-06; BGE 1-2008, f. & cert. ef. 3-20-08; BGE 1-2011, f. 6-21-11, cert. ef. 7-1-11

DIVISION 40

EXAMINATION PROCEDURES

809-040-0000

Examination Applications

(1) Application for examination shall be on forms provided by the Board and must be accompanied by the required fee(s), official transcript(s) of education, and experience verification.

(2) The Board shall evaluate the applicant's qualifications to determine that the prerequisites as prescribed by ORS 672.555–672.565 have been met before the applicant is allowed to take the examination.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1979(Temp), f. & ef. 5-18-79; GE 2-1979, f. 10-2-79, ef. 10-3-79; GE 1-1981, f. & ef. 8-3-81; GE 1-1984, f. & ef. 2-1-84; BGE 1-2002, f. & cert. ef. 2-6-02

809-040-0001

Date of Application

Examination applications must be postmarked 120 days prior to the examination date for which the candidate is applying.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented: ORS 183.341, 183.355, 183, 192 & 672

Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 2-1999, f. & cert. ef. 11-8-99; BGE 4-2002, f. & cert. ef. 10-17-02

809-040-0002

Date of Exams

The State Board of Geologist Examiners will administer the national examination of the Association of State Boards of Geologists twice a year.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1990, f. & cert. ef. 10-2-90; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 2-2005, f. & cert. ef. 9-28-05

809-040-0003

Notice of Exam

The Board shall give written notice of the date, time, and location of the examination to each qualified applicant at least 25 calendar days before the examination date.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84

809-040-0004

Picture Identification

Picture identification shall be shown by all candidates before taking an examination.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84

809-040-0005

Examination Information

(1) The examinations shall be "closed book."

(2) The Board shall provide a list of acceptable items that may be brought for use while taking the examination.

(3) The Board shall inform examinees of the approximate length of time to be allowed for taking the examination.

(4) Examinees shall not receive any assistance during the examination.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1979(Temp), f. & ef. 5-18-79; GE 2-1979, f. 10-2-79, ef. 10-3-79; GE 1-1981, f. & ef. 8-3-81; GE 2-1982(Temp), f. & ef. 9-16-82; GE 1-1983, f. & ef. 2-17-83; GE 1-1984, f. & ef. 2-1-84; BGE 1-2002, f. & cert. ef. 2-6-02

809-040-0006

Scope of Geologist Examination

The geologist examination shall consist of:

(1) The fundamental section of the national examination testing knowledge of geology obtained while working toward a Bachelor's Degree in Geology; and

(2) The practice section of the national examination testing knowledge, skills and abilities gained by experience in the field and the ability to solve geologic problems.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1990, f. & cert. ef. 10-2-90; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 2-2005, f. & cert. ef. 9-28-05

809-040-0008

Scope of Engineering Geologist Specialty Examination

The Engineering Geologist Specialty Examination shall be a written examination testing knowledge of engineering geology gained by the required experience in that specialty. It may consist of a fundamental portion and a practical portion.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1990, f. & cert. ef. 10-2-90; BGE 1-2002, f. & cert. ef. 2-6-02

809-040-0009

Geologist-in-Training Examination

The Geologist-in-Training Examination is the fundamental portion of the Geologist Examination.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1990, f. & cert. ef. 10-2-90

809-040-0010

Grading

The passing score of the fundamental and of the practical portions of the geologist examination shall each be 70 percent or higher. The passing score of the engineering geologist specialty examination shall be 70 percent or higher.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1979(Temp), f. & ef. 5-18-79; GE 2-1979, f. 10-2-79, ef. 10-3-79; GE 1-1983, f. & ef. 2-17-83; GE 1-1984, f. & ef. 2-1-84

809-040-0011

Notice of Score

The Board will notify applicants by mail of their examination scores.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84

809-040-0020

Review of Examination

Test questions, scoring keys, and other data used to administer the licensing examinations are confidential and may not be disclosed to applicants unless otherwise required by law.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1979(Temp), f. & ef. 5-18-79; GE 2-1979, f. 10-2-79, ef. 10-3-79; GE 1-1984, f. & ef. 2-1-84; GE 2-1984, f. & ef. 9-5-84 ; BGE 4-2002, f. & cert. ef. 10-17-02

809-040-0021

Proctored Review and Manual Rescoring

(1) Applicants who do not pass an examination prepared by the Association of State Boards of Geologists (ASBOG) and administered by the Board may request manual rescoring of the examination, a proctored review, or both.

(2) Applicants who do not pass a Certified Engineering Geology examination administered by the Board may request a proctored review.

(3) A "manual rescoring" occurs when the accuracy of exam results that had been scored by machine are checked by hand.

(4) A "proctored review" occurs when an applicant who took the exam is provided an opportunity to review what questions on the exam were answered correctly and incorrectly.

(5) Only one proctored review and manual rescoring is allowed for each applicant per exam or exam section.

(6) Fees: Applicants must pay the fees charged by the Board for the costs of these services. Separate fees for rescoring and proctored review services are charged by the Board in accordance with the Board's fee rule, OAR 809-010-0001. These fees include the amount due to ASBOG that is collected by the Board to send to ASBOG with the applicant's request.

(7) Procedures:

(a) When rescoring or proctored review is requested for an ASBOG examination, the Board follows the most current ASBOG procedures found in the ASBOG Professional Geologists Candidate Handbook, and the requirements of this rule (809-040-0021) apply.

(b) When a proctored review is requested for the Certified Engineering Geology examination, the requirements of this rule (809-040-0021) apply.

(c) Any written request for rescoring or proctored review and all associated fees must be received by the Board office no later than 10 days after the Board's release of the examination score to the applicant unless otherwise authorized in writing by the Board Administrator.

Stat. Auth.: ORS 672.555 & 672.575

Stats. Implemented: ORS 672.555 & 672.575

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 2-1984, f. & ef. 9-5-84; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 4-2002, f. & cert. ef. 10-17-02; BGE 2-2013, f. & cert. ef. 9-24-13

809-040-0022

Retake of Examination

(1) Applicants must submit a retake application form and the appropriate fee to retake failed portions of examinations.

(2) After two failures to pass an examination, an applicant shall provide evidence, satisfactory to the Board, of further preparation before retaking the failed sections.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1988, f. 11-18-88 & cert. ef. 12-1-88; BGE 1-2002, f. & cert. ef. 2-6-02

809-040-0023

Time Limitation

After approval for examination, applicants must take the examination within one year from the date of approval, or reapply.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84

809-040-0030

Refunds

(1) Refunds of examination fees will be made only if the applicant does not qualify for examination.

(2) Refunds of examination fees will not be made to individuals who withdraw from, or do not appear for, exams.

(3) The Application Fee is nonrefundable.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 1-2002, f. & cert. ef. 2-6-02

DIVISION 50

GENERAL

809-050-0000

Use of Seal

A facsimile of a registrant's seal shall be affixed to final products created in the public practice of geology.

(1) A Registered Geologist shall use a seal bearing the Registered Geologist's name, certificate number, and registration title, as shown in Exhibit 1 of this rule. The Registered Geologist seal must be at least 1.5 inches in diameter from point to point. A Registered Geologist may use an electronic seal that meets these requirements.

(2) A Certified Engineering Geologist shall use a seal bearing the Certified Engineering Geologist's name, certificate number, and registration title, as shown in Exhibit 2 of this rule. The Certified Engineering Geologist seal must be at least 1.5 inches in diameter from point to point. A Certified Engineering Geologist may use an electronic seal that meets these requirements.

(3) Draft geology or specialty geology products or documents clearly marked as draft do not require a geologist's seal.

(4) If a stand-alone report is sealed by the registrant responsible for the work, then individual work products prepared by the registrant and compiled in the report, for example geology figures, maps, and logs, do not need to be individually sealed. The geology products within a stand-alone report not prepared by the registrant that seals the report shall be individually sealed by the registrant(s) who prepared those products.

(5) Final geology work products not included in a compiled report, such as boring logs, shall be individually sealed and signed.

(6) A registrant who seals and signs a final version of a geology product must be in responsible charge for the geology content of that product.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605

Stats. Implemented: ORS 672.505 - 672.705

Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 2-2002, f. & cert. ef. 4-15-02; BGE 8-2004, f. & cert. ef. 8-5-04; BGE 2-2006, f. & cert. ef. 6-26-06; BGE 1-2012, f. & cert. ef. 6-15-12

809-050-0005

Signature

(1) After the registrant's seal has been applied to the original or record copy, the registrant shall place the registrant's handwritten signature in permanent ink across the seal. The registrant shall write the word "Expires" followed by the registration expiration date direct-

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ly below the seal. This requirement applies unless a digital signature is used as provided under Section (2).

(2) For an electronic or digital document, an electronic or digital signature is acceptable as allowed by ORS 84.001 to 84.064.

(3) An electronic or digital signature must be:

- (a) Unique to the registrant using it;
- (b) Under the direct control of the registrant,
- (c) Verifiable, and

(d) Include the registrant's expiration date immediately preceded by the word "Expires".

(4) Each displayed copy of and each hard copy printed from a transmitted or stored electronic document containing an electronic or digital signature shall bear the seal and the signature.

(5) If the electronic or digital document with an electronic or digital signature is altered in any manner, the seal is no longer valid and the document can no longer be considered prepared or approved by or under the direction of a Registered Geologist.

(6) The use of an electronic or digital signature by any person other than the owner may be grounds for disciplinary action.

Stat. Auth.: ORS Chapter 183 & 670.310

Stats. Implemented: ORS 672.605

Hist.: BGE 1-2011, f. 6-21-11, cert. ef. 7-1-11

809-050-0010

Qualifications for Cooperative Registration or Temporary Permits

(1) To qualify for cooperative registration as a geologist, the applicant shall:

(a) Hold a valid registration, obtained by passing the ASBOG examination, from a state, territory or possession of the United States or the District of Columbia, as verified by the Administrator;

(b) Meet the education, experience, and exam requirements of OAR 809-030-0015(1), including passing the ASBOG practice examination and demonstrating a minimum of seven years qualifying geology experience;

(c) Apply for registration on forms provided by the Board; and

(d) Submit the required fee(s) as per OAR 809-010-0001.

(2) To qualify for cooperative certification as an engineering geologist, the applicant shall:

(a) First receive cooperative registration as geologist from the Board;

(b) Provide evidence of passing a certification examination approved by the Board for engineering geologists as per OAR 809-005-0000, 809-030-0020, and 809-040-0008;

(c) Submit a complete application on forms provided by the Board; and

(d) Submit applicable fees as per OAR 809-010-0001.

(3) To qualify for a 60-day temporary permits to engage in the public practice of geology, non-registrants must:

(a) Submit an application on a form provided by the Board;

(b) Pay appropriate application fees as per OAR 809-010-0001;

(c) Not reside in Oregon or have an established place of business in Oregon;

(d) hold a current registration or certification to practice geology from another state, territory or possession of the United States or the District of Columbia, as verified by the Administrator; and

(e) explain how work will be limited to one period of 60 consecutive days in the calendar year.

Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605

Stats. Implemented: ORS 672.505-672.705

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 2-1986, f. & ef. 3-5-86; GE 3-1986, f. & ef. 7-15-86; GE 1-1990, f. & cert. ef. 10-2-90; BGE 1-2000, f. & cert. ef. 8-3-00; BGE 2-2002, f. & cert. ef. 4-15-02; BGE 2-2005, f. & cert. ef. 9-28-05; BGE 1-2012, f. & cert. ef. 6-15-12

809-050-0020

Roster

The Board will publish a yearly roster containing the names of all registrants as of November 30, the **Code of Ethics**, and other information the Board deems appropriate.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented:

Hist.: GE 1-1984, f. & ef. 2-1-84

809-050-0050

Required Application Information

(1) The Board will not issue or renew any registration or specialty certification unless an applicant or registrant provides his or her Social Security Number on the application or renewal form.

(a) A registrant need not provide the Social Security Number on the renewal form if the Social Security Number has been previously provided to the Board and is in the record.

(b) An applicant need not provide the Social Security number on a subsequent application if the Social Security Number has been previously provided to the Board and remains in the record.

(2) If an individual has not been issued a Social Security Number by the United States Social Security Administration, the Board will accept a written statement from the applicant to fulfill the requirements of OAR 809-050-0050(1) and this rule. The individual may, but is not required to, submit the written statement on a form provided by the Board. Any written statement submitted must:

(a) Be signed by the individual;

(b) Attest to the fact that no Social Security Number has been issued to the individual by the United States Social Security Administration;

(c) Assert that the information provided about the Social Security Number is true and correct; and

(d) Acknowledge that knowingly supplying false information under this section is as crime.

(3) Individuals must provide Social Security Numbers as required by ORS 25.785, 305.385, 42 USC § 666(a)(13), and 42 USC § 405(c)(2)(C)(i) for child support enforcement purposes and Department of Revenue purposes.

Stat. Auth.: ORS 670.310 & 670.304

Stats. Implemented: ORS 25.785, 305.385 & 42 USC § 666(a)(13)

Hist.: BGE 10-2004, f. & cert. ef. 10-19-04; BGE 1-2014(Temp), f. & cert. ef. 9-15-14 thru 3-13-15

DIVISION 55

COMPLIANCE

809-055-0000

Complaint Process

(1) "Complaint" is an issue brought to the attention of the Board that may or may not result in formal charges as provided in ORS 672.665.

(2) "Coordinator" means Complaint Coordinator where used in this rule.

(3) "Respondent" refers to a person or firm against whom a complaint has been made.

(4) The primary objectives of the Board in the review of complaints are to safeguard the health, safety, welfare, and property of the people of Oregon and to regulate the public practice of geology.

(5) The Board makes all recommendations and decisions regarding complaints during a Board meeting.

(6) The Board addresses complaints as follows:

(a) The Board Chair assigns one member of the Board to serve as Coordinator. All complaints under consideration by the Board will be referred to this Coordinator for processing and investigation. The Coordinator has the investigatory powers and authority of the Board Chair for purposes of conducting the investigation.

(A) The Coordinator is supported by the Board Administrator.

(B) In the event the Coordinator requests to be recused from a case due to a potential conflict of interest, the Board Chair may appoint another Board member to serve as Coordinator for said case.

(b) Complaints filed with the Board pursuant to ORS 672.665 must be in writing and sworn to, where sworn to means the complainant declares by signature under penalty of perjury that the statements and information in the complaint are believed to be true.

(c) Receipt of all complaints filed with the Board will be acknowledged by the Board staff.

(d) The complainant will not be considered a party to the case.

(e) To the extent permitted by law, the Board will cooperate with other licensing boards during the conduct of an investigation.

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(7) Complaints will be processed and investigated through the Coordinator, with assistance from the Board Administrator and staff, as follows:

(a) A case number will be assigned and a preliminary review of the complaint will be made.

(A) If the Coordinator concludes that the complaint may have validity, the Coordinator may have the Board Administrator notify the respondent of the allegations and request written response from the respondent along with supporting or requested records and information.

(B) If the Coordinator concludes that the complaint does not appear to have validity, the Coordinator will prepare a summary for the Board's consideration.

(b) The Coordinator may engage with the following individuals during the review of a complaint:

(A) The Coordinator may consult with individual Board members or, through the Board Administrator, consult with the Board counsel;

(B) The Coordinator may seek the services of one or more Board registrants serving in the capacity of technical reviewers to assist in evaluating the case; and

(C) The Coordinator may seek the services of any other individuals as necessary to gather information and complete the case investigation on behalf of the Board.

(c) The respondent must supply any written comments as follows:

(A) Written comments and information requested on behalf of the Board must be provided to the Board office within 21 calendar days after the notification is mailed, unless an extension is authorized by the Board Administrator.

(B) After the 21 calendar days or any extension authorized, the Coordinator will evaluate the complaint using available evidence including any documentation or comments received from the respondent, Board members, investigators, technical reviewers, Board staff, and the Board's counsel.

(d) The Coordinator will present the case status and investigatory results during a Board meeting.

(e) The Board Administrator, with any needed assistance from the Coordinator, will carry out the recommendations or decisions of the Board, including but not limited to preparing requests for additional information, letters of concern, settlement proposals, notices of violation, securing technical reviewers and investigators, and closing out cases.

Stat. Auth.: ORS 670.310(1), 672.615(8) & 672.665

Stats. Implemented:

Hist.: GE 2-1992, f. 9-30-92, cert. ef. 10-1-92; BGE 1-2000, f. & cert. ef. 8-3-00; BGE 2-2000, f. & cert. ef. 11-17-00; BGE 1-2002, f. & cert. ef. 2-6-02, Renumbered from 809-050-0040; BGE 2-2009, f. & cert. ef. 12-11-09; BGE 3-2012, f. 12-13-12, cert. ef. 12-21-12

809-055-0010

Contested Case Proceedings

The State Board of Geologist Examiners adopts the Attorney General's Model Rules for Contested Case Proceedings, OAR 137-003-0501 to 137-003-0700, as the rules of procedure for contested cases.

Stat. Auth.: ORS 183.341 & 670.310(1)

Stats. Implemented: ORS 183.310 - 183.550 & 670.325

Hist.: BGE 1-2002, f. & cert. ef. 2-6-02

809-055-0020

Contested Case Procedure

(1) A hearing request shall be made in writing to the Board by the party or his/her representative within 30 days of the mailing date of the Notice of Proposed Action.

(2) Each request for hearing must include an answer containing:

(a) An admission or denial of each factual matter alleged in the notice; and

(b) A short and plain statement of each relevant affirmative defense the party may have.

Stat. Auth.: ORS 183.341 & 670.310(1)

Stats. Implemented: ORS 183.310 - 183.550 & 670.325

Hist.: BGE 1-2002, f. & cert. ef. 2-6-02

DIVISION 60

BOARD OPERATIONS

809-060-0001

Appointment of Board Members

(1) The Public Member shall be appointed by the Governor.

(2) The Governor may select and appoint any qualified Registered Geologist to fill a Board geologist position.

(3) If the Governor does not appoint a licensee to fill the expired term of an existing Board member, those members shall continue to serve until replaced.

Stat. Auth.: ORS 670.310, SB 546 & SB 1126

Stats. Implemented: ORS 672.505 - 672.705

Hist.: BGE 3-1998, f.10-16-98, cert. ef. 10-21-98; BGE 1-2000, f. & cert. ef. 8-3-00

809-060-0002

Vacancies

(1) A vacancy exists when a Board member completes the term for that position, resigns, becomes incapacitated, or otherwise is incapable of performing the duties of a Board member, or is removed from office or is not re-appointed by the Governor upon expiration of the member's current term.

(2) Notwithstanding subsection (1) of this section, a vacancy does not exist when an actively sitting Board member completes the member's first full term, so long as the member is re-appointed by the Governor to a second full term. A member who is eligible for re-appointment shall be given notice by the Board of such eligibility; and within 20 days after such notice, give the Board and the Governor written notices of their intention to seek re-appointment not later than 120 days before the expiration of the member's term.

Stat. Auth.: ORS 670.310 & SB 546

Stats. Implemented: ORS 672.505 - 672.705

Hist.: BGE 3-1998, f.10-16-98, cert. ef. 10-21-98; BGE 1-2000, f. & cert. ef. 8-3-00

809-060-0003

Qualifications for Membership on the Board

(1) A registrant is qualified to seek nomination for Board membership if:

(a) The registrant holds an active registration with the Board; and

(b) Has lived in the State of Oregon for at least one year preceding appointment to the Board; and

(c) Has been registered with the Board for at least one year preceding appointment to the Board.

(2) Notwithstanding subsection (1) of this section, a registrant is not qualified for nomination to Board membership if the registrant has been convicted, plead guilty, or plead nolo contendere to any criminal charge if the relationship of the facts which support the charge and all intervening circumstances tend to show that the registrant is not fit to hold the position, in the discretion of the Board.

(3) A registrant is not qualified for nomination to Board membership if the registrant, within the previous five years, has been reprimanded, suspended, or revoked by the Board for a violation of ORS Chapter 672 or the rules adopted by the Board.

Stat. Auth.: ORS 670.310 & SB 546

Stats. Implemented: ORS 672.505 - 672.705

Hist.: BGE 3-1998, f.10-16-98, cert. ef. 10-21-98; BGE 1-2000, f. & cert. ef. 8-3-00; BGE 1-2002, f. & cert. ef. 2-6-02

