



# Oregon

**State Board of Examiners for  
Engineering & Land Surveying**

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**PROFESSIONAL PRACTICES COMMITTEE**

Minutes of Meeting

October 12, 2012

Members present:

Sue Newstetter, Chair

Steven Burger

Jim Doane

Sue Frey

Staff present:

Mari Lopez

Jenn Gilbert

Allen McCartt

Joy Pariante

James R. (JR) Wilkinson

Others present:

Katharine Lozano, Assistant Attorney General

Kevin Clemo, Washington County Building Division

Susan Morgan, Douglas County Commissioner

Gary Nielson, Building Engineer, Washington County

Tom Rogers

Chuck Wiley

Aaron Yuma

The meeting of the Professional Practices Committee (PPC) was called to order at 1:05 p.m. in the conference room of the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) office at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

**Unfinished Business –**

**Question – Part-time Employee**

During the August meeting, the Committee discussed an email from Chuck Wiley concerning an individual that works ½ time or less in a firm that is offering land surveying services. At the time, the Committee was unclear if the ½ time PLS was an employee of the company or a contractor. As a result, Mr. Wiley was present to discuss the details with the Committee. He explained that this situation has occurred within his place of employment due to the economy. Mr. Wiley questioned who is responsible to meet the full-time requirement contained in Oregon Administrative Rule (OAR) 820-010-0720 if the company forces the PLS to reduce its hours?

AAG Lozano stated that both the PLS and the company could be held responsible. She said if the company is advertising for or offering engineering or land surveying services and does not have a licensee employed full-time, the responsibility falls on the company. However, if a

licensee has a sole proprietorship or is a partner in a business without a full-time registrant employed to oversee engineering or land surveying services, the responsibility would fall on the licensee.

### **New Business –**

- 1) ORS 672.020 – Email from Kevin Clemo dated August 31, 2012 and Email from the Washington County Building Department dated September 6, 2012
- 2) Interpretation of OAR 820-010-0622 – Douglas County Board of Commissioners & Douglas County Building Department

The Committee received two similar inquiries regarding final work that needs to be stamped and sealed when dealing with residential (exempt) structures. The background information is that a client often will hire a home designer, but upon permit review there is some aspect of the design that requires an engineer's review with seal and signature. OAR 820-010-0622 requires engineers to indicate in some manner their revision or review on the design, to refer the reader to a separate document, and to seal and sign that document. Sometimes the engineer's work is separated from the design. He asked whether the engineer is responsible for reviewing those designs for consistency with their calculations, and whether they are then responsible for stamping those reviewed designs?

Ms. Frey's stated that calculations must be stamped, and any drawings the engineer produced should also be stamped unless they are part of the same design packet. This is done for commercial structures. She added that most contractors may not understand the calculations and will work entirely off the drawings, so the drawings must be accurate. On the other hand, engineers are prohibited from sealing and signing work not done under their supervision and control. The designer's work is often not under the supervision of the engineer, unless the client has contracted for such services.

AAG Lozano referenced OAR 820-010-0622(2), Modifying Designs or Documents, which states:

- (2) *Professional Engineers modifying designs or documents prepared by an unlicensed person for an exempt structure must do the following:*
  - (a) *The Professional Engineer modifying the design or document will cloud, encircle, or in some other way clearly indicate the portion of the design or document they are revising and refer the viewer to a separate design or document.*
  - (b) *The Professional Engineer making the design revision will seal and sign the separate design or document.*

The Committee observed that in the subject situation the designer was turning the engineer's calculations into a format that could be used by a construction contractor. This led to an additional concern regarding a designer who is not properly transferring calculations and design information to their drawings. There is no requirement for a designer of an exempt structure to be licensed and, therefore, to be held responsible for any transfer errors. Ms. Frey stated an engineer is held responsible for their design and calculations when they stamp a drawing. The designer likewise should be held accountable for the rest of the drawing. However, there were concerns about increased costs due to duplication of work by both the engineer and designer.

The group also discussed what defines a design. Is a design the stamped calculations, the drawings used for building, or is it a combination of both? AAG Lozano said if someone other than the engineer is creating the drawings, then the calculations under the rules can be considered the design. AAG Lozano asked what would help building officials solve the problem of regulating when a designer fails in making or does make incorrect transfers of engineering information onto building drawings.

After some discussion, the solution is to follow OAR 820-010-0622 by having the engineer review final designs and cloud, encircle, or in some other way clearly indicate their modifications and then include language referring to a separate document. The engineer could affix a stamp to the original design that states the engineer made corrections and the engineer is confident in the accuracy of the final product being issued by the designer for use by the construction contractor. AAG Lozano stated the rule will have to be amended and that she will work on drafting wording which will specify responsibilities regarding designs and modifications under OAR 820-010-0622. Further discussion will be held during the December meeting and the participants were invited to assist in reviewing language for amendment.

The meeting adjourned at 2:12 p.m.