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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 820  
BOARD OF EXAMINERS FOR ENGINEERING AND LAND SURVEYING

**FILED**

01/10/2024 9:49 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Housekeeping for online system changes and HB 3187 - Qualifying District Employees qualifications for CWRE.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/29/2024 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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Filed By:  
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**NEED FOR THE RULE(S)**

With the passing of HB 3187 that became effective January 1, 2024, the proposed language to OAR 820-010-5000 and 820-050-0001 relate to the Qualifying District Employees and housekeeping with the MyOSBEELS online system.

OAR 820-010-5000: Qualification to Sit for Examination as a Water Right Examiner – The proposed language includes that Qualifying District Employees may sit for the CWRE examination.

OAR 820-050-0001: Continuing Professional Development – Certified Water Right Examiner (CWRE) – The proposed language includes that Qualifying District Employees are also required to complete 10 PDHs and maintain active QDE status to renew a CWRE certification.

OAR 820-010-3000: Qualifications for Registration as a Professional Photogrammetrist – Housekeeping revisions due to the transition to the MyOSBEELS online system. Additionally, the option to request reasonable accommodations in this rule are proposed for deletion since they relate to the Photogrammetry Examination and not to a qualification for licensure. The accommodation language remains in the Photogrammetry Examination rule (OAR 820-010-3020).

OAR 820-010-3020: Photogrammetry Examination – Housekeeping revisions due to the transition to the MyOSBEELS online system and clarification that the examination is offered once a year.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE**

Board and Committee meeting materials and minutes. The minutes are available on the Board's website and public documents are available upon request.

The text to enrolled House Bill 3187 and related documents are also available on the Oregon State Legislature website.

## STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

There is no expectation of any concerns or effects to any particular racial group.

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### FISCAL AND ECONOMIC IMPACT:

The proposed language updates the process reflecting a new online process and allows for an additional group to apply for certification, so there should not be any negative fiscal or economic impact.

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### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

- 1) The proposed amendments to the rules are not anticipated to create any additional costs of compliance for state agencies, units of government, or the general public.
  - 2) The proposed amendments to the rules are not anticipated to create any additional reporting, recordkeeping, or administrative activity costs to comply.
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### DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not directly involved. However, members of the Board own, work for, or have worked for small businesses. Small businesses also have the opportunity to comment on the proposed rules through the close of the public comment period.

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### WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Meetings of the Board and its committees are public and discussions are held in open sessions. Notices and Agendas are sent to interested parties, the Board's professional associations, and posted to the Board's website. The Water Resources Department was consulted and is supportive of the changes relating to HB 3187.

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### RULES PROPOSED:

820-010-3000, 820-010-3020, 820-010-5000, 820-050-0001

AMEND: 820-010-3000

**RULE SUMMARY:** The proposed revisions are mostly housekeeping because of the transition to the MyOSBEELS online system. Additionally, the option to request reasonable accommodations are being proposed for deletion since they relate to the Photogrammetry Examination and not to a qualification for licensure. The accommodation language remains in the Photogrammetry Examination rule (OAR 820-010-3020).

### CHANGES TO RULE:

820-010-3000

Qualifications for Registration as a Professional Photogrammetrist ¶¶

In order to qualify for registration as a Professional Photogrammetrist in Oregon, an applicant for registration must provide all of the following:¶¶

- (1) Evidence satisfactory to the Board of passing or having previously passed the Fundamentals of Land Surveying examination administered by NCEES.¶¶
- (2) Evidence satisfactory to the Board of passing or having previously passed a Board approved examination in practical photogrammetric mapping problems written and scored by the Colonial States Boards of Surveyor Registration (CSBSR). Candidates may sit for the examination in Oregon, but must contact the ~~OSBEELS~~OSBEELS Board to

do so, as well as for examination costs, times, dates, and details.¶¶

~~(a) Examinees may request reasonable accommodations to the examination's administration.¶¶~~

~~(A) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates.¶¶~~

~~(B) Requests for reasonable accommodations must be submitted on the Board approved form, and accompanied by supporting documentation.¶¶~~

~~(b) The deadline to request reasonable accommodations is one month prior to sitting for the examination.¶¶~~

~~(c) For reinstatement applicants, this examination must have been passed by the applicant within five years prior to application for reinstatement.¶¶~~

(3) Evidence satisfactory to the Board of having obtained a Board approved combination of education and experience. Experience as a full-time assistant professor or professor, teaching a Board approved photogrammetric, geomatics, or geospatial sciences curriculum may, at the Board's discretion, qualify as experience in photogrammetric work.¶¶

(4) A single application packet, which must include all of the following:¶¶

~~(a) A completed Registration Application form.¶¶~~

~~(b) Proof of successful passage of the NCEES Fundamentals of Land Surveying Examination. For Fundamentals of Land Surveying examinations passed before October 2010, if the Applicant did not pass the examination in Oregon, official verification must be provided by the NCEES licensing jurisdiction. For Fundamentals of Land Surveying examinations passed in October 2010 or later, the Board will verify passage with NCEES.¶¶~~

NOTE: The uniform, national examinations are written and scored by the NCEES and administered by NCEES Exam Administration Services. Please consult NCEES for examination dates, times, locations, cost, and details¶¶

~~(c) Official verification of successful passage of a Board approved examination in practical photogrammetric mapping problems written and scored by the Colonial States Boards of Surveyor Registration (CSBSR).¶¶~~

NOTE: For the examination times, places costs and details, please contact the OSBEELS or, if sitting for the examination outside of Oregon, the state in which you wish to sit for the examination¶¶

~~(d) Official transcripts of degree or coursework credentials. Official transcripts must show the degree and date awarded. For degrees or coursework not from an ABET accredited program, NCEES evaluation of the degree or coursework credentials. The cost of any NCEES Credentials Evaluation must be borne by the Applicant.¶¶~~

~~(e) A completed Experience Details form describing active practice in photogrammetric mapping work, as defined in OAR 820-005-00656.¶¶~~

~~(f) Five references from individuals with knowledge of the Applicant's technician work or photogrammetric mapping work:¶¶~~

~~(A) All five references must attest to the Applicant's ability, professional experience, or both. All five references must complete the Reference Details form provided by the Board and submit the completed Reference Details form directly to the Applicant, in a closed and sealed envelope, signed across the sealed flap by the reference.¶¶~~

~~(B) All of the Applicant's qualifying photogrammetric mapping work must be verified by at least one reference with direct supervision of that work.¶¶~~

~~(C) At least three of the five references must hold active Professional Photogrammetrist registration, Professional Land Surveyor registration, or Professional Engineer registration in jurisdiction with NCEES membership.¶¶~~

~~(D) The Board may, for good cause and upon written application, reduce the number of references required for an Applicant.¶¶~~

~~(g) For Applicants holding an NCEES Record, in lieu of providing the items listed under (b) to (f) of this subsection, the Applicant may release the Applicant's NCEES Record, if any, to the Board.¶¶~~

NOTE: See <http://ncees.org/records/>¶¶

~~(h) Any and all professional disciplinary records of the Applicant, including but not limited to final orders, letters of reprimand, stipulations, and settlement agreements.¶¶~~

~~(i) The required application and wall certificate fees.~~

Statutory/Other Authority: ORS 670.310, 672.255

Statutes/Other Implemented: ORS 672.002 - 672.325

AMEND: 820-010-3020

RULE SUMMARY: The proposed revision are housekeeping due to the transition to the MyOSBEELS online system. Language is also proposed to clarify the examination is offered once a year.

CHANGES TO RULE:

820-010-3020

Photogrammetry Examination ¶

(1) The Oregon approved photogrammetry examination is the Colonial States Board of Surveyor Registration (CSBSR) Examination and is ~~held~~offered once a year, ~~in April~~. To sit for the CSBSR Examination, a completed Examination form and required examination fee must be received by the Board offices ~~no later than February 1~~.  
~~NOTE: See <http://www.oregon.gov/OSBEELS/Pages/index.aspx>.~~ ¶

~~NOTE: Please contact the Board office for examination dates, times, costs, and details.~~ ¶

(2) To withdraw from the CSBSR Examination, and forward the Examination form and examination fees to the next examination administration, a written request to withdraw and forward the Examination form ~~and examination fees~~ must be received by the Board offices no later than ~~March 1~~45 days before the administration of the examination. Examination forms ~~and fees~~ may only be forwarded upon withdrawal once, and only to the next examination administration. After one withdrawal, the original Examination form will no longer be forwarded ~~and examination fees will not be forwarded or refunded~~. ¶

~~(3) To withdraw from the CSBSR Examination without forwarding, and request a refund of the fees, a written request to withdraw and for the fees to be refunded must be received by the Board offices no later than March 1. After one withdrawal, examination fees are non-refundable.~~ ¶

~~(4)~~ ¶

(3) The cutoff score for the CSBSR Examination is established by the Colonial States Board of Surveyor Registration. ¶

~~(54)~~ Examinees may request reasonable accommodations to the examination's administration. ¶

(a) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates. ¶

(b) Requests for reasonable accommodations must be submitted ~~on the Board approved form~~, and accompanied by supporting documentation, ~~by the applicable deadline~~. ¶

~~(65)~~ Examination Review. As the CSBSR does not facilitate examination reviews and appeals, CSBSR examination reviews are not permitted. ¶

~~(76)~~ Examination Subversion. ¶

(a) Any Applicant who is under investigation for examination subversion, as defined in OAR 820-005-008~~540~~ will not be considered by the Board until the investigation and any ensuing disciplinary action are complete. ¶

(b) An Applicant disciplined for examination subversion is subject to imposition of civil penalties and denial of registration. A Registrant who is disciplined for examination subversion is subject to imposition of civil penalties and suspension or revocation of registration.

Statutory/Other Authority: ORS 670.310, 672.255

Statutes/Other Implemented: ORS 672.002 - 672.325

AMEND: 820-010-5000

RULE SUMMARY: With the passing of HB 3187 effective January 1, language is proposed to include Qualifying District Employees may sit for the CWRE examination. Also included are housekeeping revisions that are needed because of the transition to the MyOSBEELS online system.

CHANGES TO RULE:

820-010-5000

Qualification to Sit for Examination as a Water Right Examiner ¶¶

In order to qualify for examination to sit for the Water Right Examiner, an applicant for certification must provide all of the following:¶¶

(1) Evidence satisfactory to the Board of a:¶¶

(a) Active Oregon registration as a Professional Engineer, Professional Land Surveyor, or Geologist, in good standing; or¶¶

(b) Verification from the Water Resources Department as a Qualifying District Employee.¶¶

(2) The Certified Water Right Examiner examination is ~~held~~offered once a year, ~~in April~~. To sit for the Certified Water Right Examiner examination, a completed Application for Certification form and required application fee must be received by the Board offices ~~no later than February 1~~.¶¶

NOTE: Please contact the Board office for examination dates, times, costs, and details.¶¶

(3) To withdraw from the Certified Water Right Examiner examination, and forward the Examination form ~~and examination fees~~ to the next examination administration, a written request to withdraw and forward the Examination form ~~and examination fees~~ must be received by the Board office no later than ~~March 1 for the next April Examination~~. 45 days before the administration of the examination. Examinations forms may only be forwarded upon withdrawal once, and only to the next examination administration. After one withdrawal, the original Examination form will no longer be forwarded¶¶

(4) Examinees may request reasonable accommodations to the examination's administration.¶¶

(a) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates.¶¶

(b) Requests for reasonable accommodations must be submitted on the Board approved form, and accompanied by supporting documentation, by the ~~February 1~~application deadline.¶¶

(5) Review of Examinations. With respect to the certified water right examiner examination, an Applicant may submit a written request to review the Applicant's own examination results. The Board will allow an examination review where the Applicant failed the examination and the applicant achieved a score within five points of the cutoff score. With respect to such reviews:¶¶

(a) The Applicant may examine only the question, solution, and answer key for the failed problem.¶¶

(b) The Applicant may review the examination on only one occasion. The Board will prescribe a time and place for the review.¶¶

(c) All examination reviews will be conducted in the presence of a person designated by the Board.¶¶

(d) Except as allowed by the Board for persons requiring disability assistance, no person may accompany the Applicant during the examination review.¶¶

(6) Examination Subversion.¶¶

(a) Any examinee who is under investigation for examination subversion, as defined in OAR 820-005-0040 will not be considered for certification until the investigation and any ensuing disciplinary action are complete.¶¶

(b) An Applicant disciplined for examination subversion is subject to imposition of civil penalties and denial of certification. A registrant who is disciplined for examination subversion is subject to imposition of civil penalties and suspension or revocation of certification.

Statutory/Other Authority: ORS 537, 797, 670.310, 672.255

Statutes/Other Implemented: ORS 672.002 - 672.325

RULE SUMMARY: With the passage of HB 3187, effective January 1, language is proposed to include that Qualifying District Employees (QDE) are also required to complete 10 PDHs and maintain active QDE status to renew a CWRE certification.

CHANGES TO RULE:

820-050-0001

Continuing Professional Development - Certified Water Right Examiner (CWRE) ¶¶

The purpose of professional development requirements is to demonstrate a continuing level of competency of certified water right examiners (CWRE).¶¶

(1) Requirements:¶¶

~~(a) A for a Registered Geologist or a Qualifying District Employee that holds certification as a CWRE is required to~~ e:¶¶

(a) Obtain 10 professional development hour (PDH) units during each biennial certification period.¶¶

~~(b) A Registered Geologist certified for part of a certification period of six months or greater shall obtain a prorated amount of required PDH.~~¶¶

~~(c) A Registered Geologist certified for part of a certification period of less than six months are~~ If certification is for a period of six months or greater, but less than the full biennial certification period, the Registered Geologist or Qualifying District Employee shall obtain a prorated amount of required PDH.¶¶

~~(c) If certification is for a period of less than six months, the Registered Geologist or Qualifying District Employee is not required to obtain PDH for that certification period.~~¶¶

(d) Every CWRE shall report PDH units on the Continuing Professional Development (CPD) Organizational form and submit to the Board office with the renewal form and fee. The CPD Organizational form must be completed in its entirety.¶¶

(e) Supporting documentation to verify the PDH units recorded on the CPD Organizational form must be submitted to the Board office when requested to participate in an audit. Supporting documentation may include, but is not limited to:¶¶

(A) Completion certificate(s);¶¶

(B) Paid receipt(s);¶¶

(C) Attendance log;¶¶

(D) Other documents supporting evidence of attendance.¶¶

(f) The CPD Organizational form and supporting documentation must be submitted to the Board in English or translated to English.¶¶

(g) Records must be retained for five (5) years.¶¶

(2) PDH units must be obtained in qualifying activities related to the individual's certification. A qualifying activity is any course or activity with a clear purpose and objective which improves, or expands the skills and knowledge relevant to the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR Chapter 690.¶¶

(3) Non-qualifying activities may include, but are not limited to:¶¶

(a) Regular employment;¶¶

(b) Personal self improvement;¶¶

(c) Equipment demonstrations or trade show displays;¶¶

(d) Enrollment without attendance at courses, seminars, etc.¶¶

(e) Repetitive attendance at the same course;¶¶

(f) Repetitive teaching of the same course;¶¶

(g) Attending committee meetings or general business meetings of any organization;¶¶

(h) Taking professional or required examinations.¶¶

(4) Units - The conversion of other units of credit to PDH units is as follows:¶¶

(a) 1 College Semester hour equals 45 PDH;¶¶

(b) 1 College Quarter hour equals 30 PDH;¶¶

(c) 1 Continuing Education unit equals 10 PDH.¶¶

(5) Sources of PDH units - One (1) PDH unit may be obtained for each contact hour of instruction or presentation. Unless otherwise noted, there is no maximum amount of PDH units a CWRE may earn per biennial certification period. Sources of PDH units include, but are not limited to the following:¶¶

(a) Successful completion of college courses;¶¶

(b) Successful completion of short courses, tutorials, correspondence, web based courses, televised and

videotaped courses;¶¶

(c) Active participation in seminars, in-house courses, workshops, and professional conventions;¶¶

(d) Teaching or instructing a course, seminar, or workshop one time only. (This does not apply to full-time faculty teaching college courses);¶¶

(e) Authoring or co-authoring published papers, articles or books. Maximum of 3 PDH units per biennial certification period;¶¶

(f) Active participation in professional or technical society, committee, or board. Maximum of 2 PDH units per biennial certification period;¶¶

(g) Self study. Maximum of 2 PDH units per biennial certification period;¶¶

(h) Non-technical educational activities related to employment.¶¶

(6) Determination of Credit - Credit determination for activities is the responsibility of the CWRE and is subject to review by the Board. The Board has final authority with respect to approval of courses, credit, PDH units for courses and other methods of earning credit.¶¶

(7) If a CWRE exceeds the requirement in any certification period, a maximum of 5 PDH units in courses/activities may be carried forward into the next certification period.¶¶

(8) Delinquent, retired or inactive certificate holders must provide evidence of holding active registration as a professional engineer, professional land surveyor, or registered geologist, in addition to completing the PDH requirements as outlined in OAR 820-010-0520 in order to attain active status. If certification as a CWRE was obtained as a Qualifying District Employee, active Qualifying District Employee status must be maintained.

Statutory/Other Authority: ORS 670.310, 672.255

Statutes/Other Implemented: ORS 672.002 - 672.375