



# Oregon

**State Board of Examiners for  
Engineering & Land Surveying**  
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**RULES & REGULATIONS COMMITTEE**  
Minutes of Meeting  
April 11, 2014

Members present:

Ken Hoffine, Chair  
Jason Kent

Members absent:

William Boyd (excused)

Staff present:

Mari Lopez, Administrator  
Jenn Gilbert, Executive Assistant  
Joy Pariente

Others present:

Warren Foote, Assistant Attorney General

The meeting of the Rules and Regulations Committee was called to order at 8:07 a.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

**Public Comment**

There was no public comment.

**Unfinished Business**

**Mission, Functions and Goals**

The Committee discussed revisions to the goals identified in the Mission, Functions and Goals statement. Former Board member Grant Davis had suggested a revision of OAR 820-020-0020 in 2011. Ms. Lopez explained that this rule allows professional engineers, regardless of the discipline in which they're especially qualified, to practice in any discipline (except structural) where they are competent, based on education and experience. Mr. Kent said he didn't think the rule, in its current form, was restrictive enough. Mr. Hoffine disagreed – he said he didn't see the need to change the rule, as the statutes and rules currently in place have been sufficient for determining violations based on lack of competence. The Committee determined to remove this goal from the statement.

The Committee also discussed the goal defining “appurtenance”, as used in ORS 672.060(10). Ms. Lopez said the Oregon Board of Architect Examiners has a definition they refer to in OAR 806-010-0125, but OSBEELS does not have this term clearly defined. She said this has also caused an issue with past regulatory cases. Mr. Hoffine asked where the term is used in OSBEELS' rules. Ms. Lopez said the rules are silent on the term and definition, but it is used in

ORS 672.060. Mr. Kent asked if this change would need to be made during Legislative Session. Ms. Gilbert said the term may be defined in rule. The Committee determined to discuss potential definitions for “appurtenance” during the June Committee meeting. The Committee recommends the Board approve the revised Mission, Functions and Goals statement for the Rules and Regulations Committee. There was no further discussion.

### **New Business**

#### **Delinquent Fee/Status rules**

*OAR 820-010-0505 – Biennial Renewal of Registration or Certification and OAR 820-010-0520 – Registrants or Certificate Holders Not Qualified to Practice*

The Committee discussed discrepancies between these two rules and current Board practices regarding registration status after failing to pay delinquent fees. The proposed changes to the rules would specify that failure to pay the delinquent fee will place a registration or certificate in the “delinquent” status; where it would remain until the delinquent fee and all other fees are paid in full. Registrants cannot practice when their registration is in the “delinquent” status. The Committee recommends the Board begin the rulemaking process for OAR 820-010-0505 and OAR 820-010-0520, as amended. There was no further discussion.

#### **Discuss OAR 820-010-0465 – Application for Readmission**

Ms. Gilbert explained that this discussion was initiated during a recent special Board meeting where Board member Shelly Duquette expressed concern regarding individuals who are applying for their professional examinations multiple times and either repeatedly failing the exam or not showing up for the exam. Ms. Lopez said the root of the concern is that individuals may pass the examination by chance after so many attempts – which does not accurately reflect their competency and could impact the Board’s protection of the public.

Mr. Kent suggested developing a reference matrix to set consistent standards for handling “no shows” and exam failures – to include the amount of “no shows” permitted before application denial and the amount of time between exam cycles for individuals who are not achieving a passing score. Ms. Lopez said a matrix for “no shows” has been developed by the Examinations and Qualifications Committee, but there is still no clarification regarding appropriate additional preparations, as defined in OAR 820-010-0465.

Mr. Hoffine suggested that Ms. Lopez reach out to member boards to see what type of preparation other states require. Ms. Gilbert noted that, if the changes to the registration and examination processes detailed in the Board’s draft legislation for the 2015 Legislative Session are passed, this issue will be obsolete. Ms. Lopez added that if the legislation is passed, it would become effective immediately after the 2015 Legislative Session. The Committee determined to review the policies of other member boards and further discuss this issue during the June Committee meeting. There was no further discussion.

#### **Dam Safety Regulations – Keith Mills**

Mr. Mills contacted Ms. Lopez regarding the Water Resources Department’s (WRD) redrafting and revision of rules pertaining to the safety of dams – including designs, drawings and specifications that are required to be prepared by a registered professional engineer. During their conversation, he explained that the objective of this effort is to provide objective-based rules that allow engineers to decide on specific engineering techniques and designs can be reviewed consistently to determine if the dams will be safe and compliant with current dam safety practices. Mr. Mills requested the participation of an OSBEELS Board member on the WRD

Rule Advisory Committee. Specifically, he requested a civil engineer. Mr. Kent volunteered to serve on the WRD Rule Advisory Committee. He said he's worked with dams and the up and downstream waterway impacts on a number of previous projects. There was no further discussion.

The meeting adjourned at 8:38 a.m.