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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

BGE 2-2020
CHAPTER 809
BOARD OF GEOLOGIST EXAMINERS

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Updates to Address Postponement or Cancellation of Examination Administration

EFFECTIVE DATE: 06/01/2020 THROUGH 11/27/2020

AGENCY APPROVED DATE: 05/29/2020

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NEED FOR THE RULE(S):

The Board routinely proctors in-person examinations for individuals working towards various types of professional registrations (e.g., Geologist-in-Training, Registered Geologist, Certified Engineering Geologist). The Board needs to adopt temporary rules to address the impacts of the COVID-19 public health emergency on examination administration. Without these rule changes, the Board does not have sufficient flexibility related to procedures and fees to be able to minimize potential impacts from examination postponement or cancellation on examination candidates. The Board had to cancel one examination administration already, and its status quo rules did not sufficiently address this scenario. Prior to the current public health emergency, the Board never had to postpone or cancel a similar examination administration and had not contemplated the need to address this scenario in its rules for examination administration.

JUSTIFICATION OF TEMPORARY FILING:

The Board determined that adoption of these examination-related temporary rules was justified to best protect the public health and safety of examination candidates, examination proctors, and Board staff with respect to providing for postponement and cancellation of examination administrations. The Board further determined that these temporary rules were necessary to help minimize the potential for economic impacts on examination candidates with respect to how fees are applied and refunded. Neither the status quo rules nor these temporary rules apply to the general public.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Board rules in OAR Chapter 809, Board meeting packet for 05/29/2020 meeting, various emergency declarations from Oregon Governor, and legal advice. Contact the Board office for more details.

RULES:

809-040-0002, 809-040-0003, 809-040-0023, 809-040-0030

AMEND: 809-040-0002

RULE SUMMARY: Amend rule to address Board postponement or cancellation of examination administration

CHANGES TO RULE:

809-040-0002

Date of Examinations ¶¶

(1) The Board will generally administer the national examination on the dates set by ASBOG.¶¶

(2) The Board will generally administer the engineering geologist examination on the same dates as the national examination.¶¶

(3) The Board may, at its sole discretion, postpone or cancel an examination administration.¶¶

(a) The Board Chair and Board Administrator each have the authority to independently decide on behalf of the Board that an examination administration is postponed or cancelled. The Board Chair and Board Administrator shall attempt to coordinate prior to such a decision being made.¶¶

(b) The Board, at its discretion, will seek to notify examination candidates as soon as practicable of a decision to postpone or cancel by mailed letter, email, or telephone.

Statutory/Other Authority: ORS 670.310, ORS 672.575

Statutes/Other Implemented: ORS 672.575

AMEND: 809-040-0003

RULE SUMMARY: Amendment of the rule to address Board postponement or cancellation of examination administration

CHANGES TO RULE:

809-040-0003

Examination Notice ¶

(1) The Board shall give written notice to each candidate approved to take an examination or examination section of the date, time, and location of the examination. This notice will be sent approximately 25 calendar days before the examination administration date. The Board, at its discretion, may send notification by mailed letter or email.¶

(2) In the event of a Board decision to postpone an examination administration, the Board may provide notice under this rule of the new examination administration date in whatever timeframe the Board, in its sole discretion, considers practical. Generally, the Board will strive to provide notice at least one week (7 calendar days) before the rescheduled examination administration date.

Statutory/Other Authority: ORS 670.310(1), 672.575

Statutes/Other Implemented: ORS 672.555 to 672.585

AMEND: 809-040-0023

RULE SUMMARY: Amend rule to address Board postponement or cancellation of examination administration

CHANGES TO RULE:

809-040-0023

Withdrawal from Examination or Forwarding of Examination Approval ¶

- (1) Prior to Board approval of an application to take an examination or examination section, a candidate can request to withdraw the application and receive a full refund of application and examination fees.¶
- (2) After Board approval is granted to take an examination or examination section, the candidate can request in writing to withdraw from the examination but forfeits application and examination fees paid. The only exception to this is if a refund of examination fees is approved under 809-040-0030. ¶
- (3) After Board approval is granted to take an examination or examination section, a candidate may request in writing to forward the Board approval to the next scheduled examination administration date. The candidate's written request must be received in the Board office at least one week (7 calendar days) prior to the examination administration date on which the candidate was originally approved to take the examination or examination section. ¶
- (a) The Board shall not consider an untimely request to forward the approval to take an examination or examination section. ¶
- (b) The Board may only forward an examination approval to the next scheduled examination administration date. ¶
- (4) When forwarding an approval to take an examination or examination section to the next examination administration date, the Board will credit the candidate the application and examination fees already paid. The candidate is responsible for paying the following additional fees no later than 60 days prior to the next examination administration date:¶
- (a) The examination processing fee specified in OAR 809-010-0001; and¶
- (b) If the application or examination fees set in OAR 809-010-0001 increase between the examination administration date specified in the original Board approval and the next examination administration date, then the candidate will be required to pay the balance due. The Board will notify the candidate of any change in the fees due.¶
- (5) The amendments to this rule adopted in 2019 are effective and shall apply to all applications received by the Board for examinations administered in 2019 or later.¶
- (6) Effective for examination administrations in 2020 and later, the Board will not apply the following provisions of this rule when an examination candidate is forwarded to a future examination administration date or requests to withdraw from examination due to a Board decision to postpone or cancel an examination administration:¶
- (a) The one-week (7 calendar days) request timeframe in subsection (3); ¶
- (b) The restriction in subsection (3) on forwarding past the next examination administration date, with the Board, in its sole discretion, allowing forwarding to the next or subsequent examination administration date; and ¶
- (c) The examination processing fee in OAR 809-010-0001(5) and (4)(a).

Statutory/Other Authority: ORS 182.466(4), 670.310(1), 672.555, 672.585, ORS 672.705

Statutes/Other Implemented: ORS 672.705, ORS 672.555 to 672.585

AMEND: 809-040-0030

RULE SUMMARY: Amend rule to address Board postponement or cancellation of examination administration

CHANGES TO RULE:

809-040-0030

Refunds ¶¶

(1) The Board may refund examination fees if:¶¶

(a) The Board or authorized designee of the Board determines that a candidate does not qualify for examination;¶¶

(b) The candidate withdraws application for examination prior to Board approval or denial of the application for examination.¶¶

(c) No later than one week (7 calendar days) prior to the examination administration date, the Board receives in the Board office from the candidate written documentation sufficient to demonstrate good cause for not being able to take an examination. For purposes of this section, "good cause" is determined by the Board Administrator or designee of the Board on a case-by-case basis upon receipt of sufficient information and evidence showing that the candidate is prevented from or faces considerable difficulty taking the examination on the approved examination administration date for one of the following reasons:¶¶

(A) The candidate, the candidate's close family member, or the candidate's significant other is experiencing physical, mental, or emotional disability, illness, or other similar hardship that significantly and materially interferes with the candidate taking the examination; or¶¶

(B) The candidate, the candidate's close family member, or the candidate's significant other is called to active duty in the armed forces of the United States for a period of time that prevents the candidate from taking the examination.¶¶

(C) For purposes of this rule, close family member is a spouse, domestic partner, child, parent, or grandparent of the candidate and a significant other is a person whom the candidate has had a long, close, and personal relationship. ¶¶

(d) Except as provided in subsection (5) below, any refund of examination fees will be reduced by an examination processing fee as set in OAR 809-010-0001.¶¶

(2) The Board will not refund examination fees if:¶¶

(a) A candidate, without giving notice to the Board under (1)(c) of this rule, does not appear to take an examination or examination section on the examination administration date;¶¶

(b) A candidate requests to withdraw from an examination or examination section with less than one week (7 days) written notice to the Board; or¶¶

(c) A candidate requests to withdraw from an examination or examination section due to a schedule conflict or other reason that does not qualify as good cause under (1)(c) of this rule.¶¶

(3) The application fee, which is separate from the examination fees, is not refundable.¶¶

(4) The amendments to this rule adopted in 2019 are effective and apply to all applications received by the Board for examinations administered in 2019 or later.¶¶

(5) Effective for examination administrations in 2020 and later, the Board will issue a full refund of the examination fee and not charge the examination processing fee to any examination candidate that requests a refund as a result of a Board decision to postpone or cancel the examination administration for which the candidate was approved.

Statutory/Other Authority: ORS 182.466(4), 670.310(1), 672.555, 672.585, ORS 672.705

Statutes/Other Implemented: ORS 672.705, ORS 672.555 to 672.585