



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 806
STATE BOARD OF ARCHITECT EXAMINERS

FILED

10/21/2019 2:55 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Update and revise references to program materials and guides and clarify previous rule revisions.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/06/2019 10:30 AM

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.

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Filed By:
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 12/06/2019

TIME: 10:00 AM - 10:30 AM

OFFICER: Chair Jim Chaney

ADDRESS: Oregon State Board of
Architect Examiners
205 Liberty St NE, Suite A
Salem, OR 97301

NEED FOR THE RULE(S):

To update references to current versions of approved program materials and guides, revise the Architectural Experience Program reference, and to clarify previously adopted rule amendments.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Board statutes, rules, and meeting minutes which are all available at www.osbae.com.

FISCAL AND ECONOMIC IMPACT:

There is no material fiscal impact to registrants or small business.

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) None

(2)(a) Approximately 827 architectural firms are registered with the Board and subject to OAR Chapter 806.

(2)(b) None

(2)(c) None

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Board meeting agendas and minutes are posted on the website. Board members that work for or own small businesses participated in the development of the rules.

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

Since these are minor rule amendments the Board accepted public input on the development of the rules at a Board meeting rather than appointing an Administrative Rule Advisory Committee.

RULES PROPOSED:

806-001-0004, 806-010-0001, 806-010-0010, 806-010-0035, 806-010-0045, 806-010-0050

AMEND: 806-001-0004

RULE SUMMARY: This rule amendment is needed to adopt the most recent version of the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act.

CHANGES TO RULE:

806-001-0004

Rules of Procedure ¶¶

The Board adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act in effect July 1, 2016~~2~~, as the Board's general administrative procedural rules and to govern the Board's rulemaking and contested cases or equivalent proceedings.¶¶

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Architect Examiners.]

Statutory/Other Authority: ORS 671.125

Statutes/Other Implemented: ORS 183.341

AMEND: 806-010-0001

RULE SUMMARY: Verbiage change to clarify the definition of "control" and "supervision."

CHANGES TO RULE:

806-010-0001

Definitions

- (1) "Architect" means an individual who has met the requirements and been issued a certificate of registration by the Board as defined under ORS 671.010.¶
- (2) "Architectural firm" is defined as any legal entity that provides architectural services in the state of Oregon including:¶
 - (a) Corporations (refer to OAR 806-010-0080 for specific rules relating to corporate or assumed business names); ¶
 - (b) Partnerships; ¶
 - (c) Limited liability companies; ¶
 - (d) Individuals practicing under an assumed business name (refer to OAR 806-010-0080 for specific rules relating to corporate or assumed business names).¶
- (3) "Appurtenances" as used in the definition of the Practice of Architecture in ORS 671.010(3) refers to those systems, equipment and/or elements, whether interior or exterior, that are necessary to the overall function of a building.¶
- (4) "Control" and "supervision" as used in ORS 671.030(2)(a) mean having full professional knowledge of and direction for the work performed for the architect. ¶
- (5) "Planning" and "Designing" as used in the definition of the Practice of Architecture in ORS 671.010(7) includes but is not limited to:¶
 - (a) The determination of design objectives, space requirements, space relationships, systems, flexibility/expansibility and site requirements.¶
 - (b) The preparation of schematics, massing layouts, plans, drawings, specifications, calculations and other diagnostic documents which show the features of the non exempt work being contemplated.¶
 - (c) The preparation of construction documents including, but not limited to, architectural drawings, mechanical and electrical drawings, specifications and procurement documents. Except as provided in ORS 479.860, ORS 671.025 requires construction documents for non exempt work to be stamped and signed by an Oregon registered individual architect or professional engineer.

Statutory/Other Authority: ORS 671 & 672

Statutes/Other Implemented: ORS 671.010 & 672.041

AMEND: 806-010-0010

RULE SUMMARY: This rule amendment is needed to adopt the most recent versions of NCARB's Guidelines for the Architectural Experience Program, Architect Registration Examination, and Certification.

CHANGES TO RULE:

806-010-0010

Approved Architect and Firm Registration and Evaluation Programs ¶

- (1) The Board adopts the education standard adopted by the National Council of Architectural Registration Boards (NCARB), consisting of a professional degree in architecture from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB), or a professional degree in architecture certified by the CACB from a Canadian University.¶
 - (2) The Board adopts the requirements in the document titled NCARB Architectural Experience Program (AXP) Guidelines dated ~~May~~ July 2017, with the exception of documenting experience through the AXP Portfolio, for the experience requirement for registration.¶
 - (3) The Board adopts the Architect Registration Examination (ARE) 5.0 prepared by NCARB, and previously adopted versions of the examination, as the approved examination to test applicant qualifications for registration.¶
 - (4) The Board adopts the requirements in the document titled NCARB Architect Registration Examination 5.0 Guidelines dated ~~February~~ July 2019 for the Architect Registration Examination (ARE).¶
 - (5) The Board adopts the requirements in the document titled NCARB Certification Guidelines dated July 2018, with the exception of documenting experience through the AXP Portfolio, for the NCARB Certificate under OAR 806-010-0035(3)(f)(A).¶
 - (6) A person may be considered for registration by the Board by satisfying:¶
 - (a) The rules for registration by examination under OAR 806-010-0020; or ¶
 - (b) The rules for registration by reciprocity under OAR 806-010-0035.¶
 - (7) A firm may be considered for registration by the Board by satisfying the rules under OAR 806-010-0080. ¶
 - (8) To pass the Jurisprudence Exam (JE) an individual must do the following:¶
 - (a) Complete the JE within 90 minutes. ¶
 - (b) Score at least 84 percent. ¶
 - (A) An individual who fails the JE must wait seven days before retaking the examination. ¶
 - (B) Test results are final and binding on the applicant. ¶
- [Publications: Publications referenced are available from the agency.]
- Statutory/Other Authority: ORS 670, 671
- Statutes/Other Implemented: ORS 671.060

AMEND: 806-010-0035

RULE SUMMARY: This rule amendment is needed to refer to the most recent version of NCARB's Certification Guidelines for registration by reciprocity.

CHANGES TO RULE:

806-010-0035

Registration by Reciprocity ¶

- (1) No person may use the "Architect" title, except under the conditions outlined under OAR 806-010-0037 and ORS 671.065. ¶
- (2) Prior to practicing architecture in Oregon, an individual must apply for and obtain a certificate of registration from the Board. ¶
- (3) To become registered by reciprocity to practice architecture in Oregon, an individual must ¶
- (a) Possess an active architectural certificate of registration or license from another Board recognized jurisdiction; ¶
- (b) Submit a complete Registration by Reciprocity Application form; ¶
- (c) Pay the required fees; ¶
- (d) Pass the Jurisprudence Exam according to OAR 806-010-0010(8); ¶
- (e) Provide any other information required by the Board; and ¶
- (f) Provide all required documentation by ¶
- (A) Transmitting an active Certificate issued by the National Council of Architectural Registration Boards (NCARB) as approved by the Board, or ¶
- (B) Submitting official (i.e., provided to the Board by the granting authority) documentary evidence of the following: ¶
- (i) A professional degree in architecture meeting the education standard under OAR 806-010-0010(1); ¶
- (ii) Passing the ARE or the examination equivalents to the ARE as listed in the July 2018² NCARB Certification Guidelines, available at www.ncarb.org or by request from the Board; ¶
- (iii) Completion of the NCARB AXP program, or two years of practice in architecture in a Board recognized jurisdiction after initial registration or licensure. ¶
- (4) The Board reserves the right to require an oral interview of any reciprocity applicant. Oral interviews are held on regularly scheduled Board meeting dates. If an oral interview is required, the applicant will be notified. ¶
- (5) Upon successful completion of all requirements for registration by reciprocity, the individual will be issued a certificate of registration and decorative wall certificate according to OAR 806-010-0040. ¶
- (6) If an application is not deemed complete within 12 months of the date of the original application, the applicant must apply again as a new applicant.

Statutory/Other Authority: ORS 671.125

Statutes/Other Implemented: ORS 671.050, 671.065

AMEND: 806-010-0045

RULE SUMMARY: This rule amendment acknowledges that technology allows registered architects to control and supervise staff who may be in a different physical location.

CHANGES TO RULE:

806-010-0045

Stamps, Seals and Signatures ¶¶

- (1) Every registered architect shall have a stamp or seal bearing the name of the registrant only, together with the city and state in which the architect's principal office is located. The stamp or seal may include the architect's registration number issued by the Board. ¶¶
- (2) The seal must be one of crimp type, rubber stamp type, or may be electronic. ¶¶
- (3) All technical submissions which are required by public authorities for building permits or regulatory approvals, or are intended for construction purposes, including all addenda and other changes to such submissions, shall be sealed and signed by the architect. ¶¶
- (4) The term "signature" or "signed" as used in ORS Chapter 671 means the following: ¶¶
 - (a) A handwritten or digital representation of a handwritten identification that represents the act of the architect putting the architect's name on a document to attest to its validity. The handwritten or digital representation must be: ¶¶
 - (A) An original written by hand; ¶¶
 - (B) A scanned image of an original, handwritten identification; or ¶¶
 - (C) A digital identification that is an electronic authentication process attached to or logically associated with an electronic document. ¶¶
 - (b) Signatures must be: ¶¶
 - (A) Permanently affixed to the document(s) being certified; ¶¶
 - (B) Applied to the document by the identified registrant; ¶¶
 - (C) Placed across the seal/stamp of the registrant; ¶¶
 - (D) Unique to the registrant using it; ¶¶
 - (E) Capable of independent verification; and ¶¶
 - (F) Under the exclusive control of the registrant using it. ¶¶
- (5) The stamp with the registrant's manual or digital signature must appear on the title page of specifications and on every sheet of the drawings intended for permit or construction, whether or not the project is exempt under ORS 671.030, and must be the stamp of an Oregon registered architect with control and supervision of the project. If the specifications and drawings bear the name of an Oregon registered architectural firm, the registrant stamping the documents must also possess written legal authority to accept responsibility for the specifications and drawings on behalf of the firm. The originals may be reproduced for permit and construction purposes. ¶¶
- (6) By signing and sealing a technical submission, the architect represents that the architect was in responsible control over the content of such technical submissions during their preparation and has applied the required professional standard of care. ¶¶
- (7) An architect may not seal and sign, or countersign, or allow their seal or signature to be affixed to any architectural plans, drawings, documents, specifications or reports not prepared by them or under their responsible control and supervision. ¶¶
- (8) Any architect signing or sealing technical submissions not prepared by that architect, but prepared under the architect's responsible control ~~by persons not regularly employed in the office where the architect is resident~~, will maintain and make available to the Board, upon request, reasonably adequate records to demonstrate the nature and extent of the architect's control over, and ~~detailed~~ professional knowledge of, such technical submissions throughout their preparation. ¶¶
- (9) Notwithstanding other sections of these rules, a successor registered architect may complete a deceased or disabled architect's drawings and specifications intended for permitting and construction as though they were the

successor's original, but must perform a thorough review and will become fully responsible for the content. The successor registered architect must use their own title block, seal, and signature, and must remove the title block, seal, and signature of the deceased or disabled architect.¶¶

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

Statutory/Other Authority: ORS 671.125

Statutes/Other Implemented: ORS 671.020

AMEND: 806-010-0050

RULE SUMMARY: This rule amendment clarifies that an Oregon registered architect is not personally required to provide all observation services. The observation services may be provided by employees of the architect, or of the architectural firm, who are under the control and supervision of the Oregon registered architect.

CHANGES TO RULE:

806-010-0050

Observation ¶¶

(1) Observation, or observing, as used in ORS 671.010-671.220, and as used in the definition of the practice of architecture in 671.010(7) at a minimum needs to include: ¶¶

(a) Interpretation of construction documents during the construction phase; and ¶¶

(b) Visiting the construction site through substantial completion on a periodic basis as is necessary to determine that the work is proceeding generally in accordance with the construction documents. ¶¶

(2) Architects must observe all projects they stamp, with the exception of exempt projects. Such observation may be performed by persons under the architect's responsible control. If the architect will not be providing the required observation on non exempt projects, the architect must so advise the primary authority having jurisdiction and the Board in writing within 30 days of when the architect becomes aware that he or she will not be providing observation. This written notice must also include the project address and project owner's name. ¶¶

(3) In accordance with ORS 671.010(7), observation of a non exempt project constitutes the practice of architecture and therefore must be provided by an Oregon registered architect or engineer.

Statutory/Other Authority: ORS 671.125

Statutes/Other Implemented: ORS 671.010