

Idaho Board of Licensure of Professional Engineers And Professional Land Surveyors

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Board Home Page <http://www.ipels.idaho.gov>

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NEWS BULLETIN

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INTRODUCTION

This NEWS BULLETIN is distributed a minimum of twice per year by the Idaho State Board of Licensure of Professional Engineers and Professional Land Surveyors to inform the public and the State's Professional Engineers and Professional Land Surveyors of those events which significantly affect the professions.

BOARD CLARIFIES POSITION ON PROFESSIONAL ENGINEER ESPECIALLY QUALIFIED IN STRUCTURAL ENGINEERING

In approximately 1988 the Board adopted use of a 16 hour examination for use in licensing a professional engineer especially qualified in structural engineering. The Administrative Rules adopted by the Board in conjunction with that process required that the person first be licensed as a professional engineer in Idaho, that they have an additional two years of experience in structural engineering, and that they take and pass a 16 hour examination approved by the Board. At that time the Board used the "California" or "Western States" 16 hour structural examination. Some time later, the National Council of Examiners for Engineering and Surveying (NCEES) developed the eight hour Structural I and the eight hour Structural II exams which were adopted by the Board. These examinations were intended to be used in conjunction with one another, but some jurisdictions began using the Structural I examination alone for initial licensure without the need to first pass a "base discipline" exam such as civil engineering and without the need to pass the Structural II exam. This has caused some problems with comity, since Idaho will not license a professional engineer by examination on the basis of passage of the NCEES Structural I exam alone. The NCEES Structural I and Structural II exams are undergoing change, and will soon be administered as a single 16 hour exam given in two days. Meanwhile, the Idaho Board has adopted a clarification of its policy in regard to licensing a professional engineer especially qualified in structural engineering. The Board policy is that individuals applying for licensure by examination must first take and pass a "base" discipline (such as civil), followed by an additional 2 years of experience in structural engineering, followed by passage of 16 hours of Structural Engineering exam. For comity applicants, if they have passed the NCEES Structural I and Structural II, they can be licensed as a Professional Engineer especially qualified in civil engineering, but in order to be licensed as a Professional Engineer especially qualified in structural engineering they must have passed a base discipline as well as the NCEES Structural I and Structural II. However, if a comity applicant for Professional Engineer especially qualified in Structural Engineering has been licensed as a structural engineer for eight years in another jurisdiction, the Board can waive the requirement of passage of the base discipline exam. The Board will revisit this policy when NCEES has adopted the changes to the structural engineering exam.

NEW ADMINISTRATIVE RULES GO INTO EFFECT

Effective upon adjournment of the 2009 session of the Idaho Legislature, changes to the Administrative Rules go into effect. The changes include significant change in nomenclature initiated by the passage of House Bill No. 380 in the 2008 session of the legislature. Those changes include the consistent use of the term “license” or “licensure” when referring to professional engineers and professional land surveyors; the use of the term “engineer intern” in place of “engineer-in-training” and “land surveyor intern” in place of “land surveyor-in-training”; the consistent use of the term “certificate” or “certification” when referring to engineer interns and land surveyor interns and business entities in regard to Certificates of Authorization.

PROFESSIONAL ENGINEERS SUBJECT TO CONTINUING PROFESSIONAL DEVELOPMENT

Effective upon adjournment of the 2009 session of the Idaho Legislature, professional engineers will be subject to requirements of continuing professional development as a condition of license renewal. Professional engineers will be exempt from the requirement between the effective date of the rules (legislative adjournment sine die) and their next renewal, but any continuing professional development they undertake in the biennium prior to their next renewal, up to a maximum of 30 professional development hours, will count toward the renewal period that begins upon the next renewal. The rules require the maintenance of a log and other documentation in order to demonstrate compliance with the requirements.

BOARD CONSIDERS LEGISLATION TO CLARIFY TRANSFER OF RESPONSIBLE CHARGE

Projects often encounter changes in the person who is in responsible charge of them. The change might come about due to promotions, layoffs, change in employment, retirement, or even death. Idaho Code states “The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency.” Idaho Code also states “The application of the licensee's seal and signature and the date shall constitute certification that the work thereon was done by him or under his responsible charge.” The potential conflict between these two sections of Idaho Code is that the final documents might contain the work product of persons who were previously in responsible charge of the project, yet they are unavailable, for whatever reason, to seal, sign and date those portions of the work for which they were responsible. The specific draft changes are as follows:

54-1223(6) In the event a licensee in responsible charge of a project leaves employment, is transferred, is promoted, becomes incapacitated, or dies, and is not available to seal, sign and date final documents, the duty of responsible charge of the project shall be accomplished by the successor licensee by becoming familiar with and reviewing, in detail, and retaining the project documents to date. Subsequent work on the project must clearly and accurately reflect his responsible charge. He shall seal, sign and date all work product in conformance with Idaho Code section 54-1215.

BOARD CONSIDERS LEGISLATION TO UPDATE THE COORDINATE SYSTEM LAW

The Board is considering asking the legislature to amend title 55 chapter 17 of Idaho Code having to do with the system of plane coordinates used in surveying. The legislation has not been updated since 1995 and has several obsolete references to datum no longer in use. In addition, the draft legislation would codify the use of a single zone system in addition to the historic three-zone system in use since 1967. For details on the draft legislation, go to the Board home page at <http://www.ipels.idaho.gov> and click on the link to “Possible 2010 Legislative Changes.” The Board welcomes comments on the draft legislation.

DISCIPLINARY ACTIONS

The following final formal actions have been taken by the Board since publication of NEWS BULLETIN No. 42 in November of 2008

Docket No. 08.41 – IN THE MATTER OF JOHN ROOT, P.L.S. Mr. Root stipulated that there was sufficient evidence to support a finding that he filed numerous Records of Survey in various counties in Idaho which failed to show evidence of compliance with Chapter 16, Title 55, Idaho Code, including instrument

numbers of any corner records which have been recorded previously, and corner records of any corners which are set in conjunction with the survey being submitted; basis of bearing; and reference to surveys of record within or crossing or adjoining the survey being performed, in violation of Idaho Code Section 55-1906. Mr. Root was admonished by the Board and within one year of the agreement shall file an Amended Record of Survey for each deficient survey from the last two years, and will submit a copy of the Amended Record of Survey for review prior to recording it.

Docket No. 09.04 – IN THE MATTER OF WELDON WEIGLE, P.E. Mr. Weigle stipulated that there was sufficient evidence to support a finding that he affixed his seal to work that was not in his responsible charge as defined by Idaho Code Sections 54-1202(12) and 54-1215(3)(d) and IDAPA 10.01.02.006.02 and 03. Mr. Weigle was admonished by the Board and paid an administrative penalty of \$500 to the General Fund of the State of Idaho. He also agreed to complete by December 10, 2009 a course in Engineering Ethics and a class on the International Building Code presented by the Idaho Association of Building Officials.

Docket No. 09.05 – IN THE MATTER OF THOMAS PESTOTNIK, P.E. Mr. Pestotnik stipulated to practicing on an expired license. He was admonished by the Board and paid an administrative penalty of \$500 to the General Fund of the State of Idaho.

Docket No. 09.05 – IN THE MATTER OF THOMAS PESTOTNIK, P.E. Mr. Pestotnik stipulated that there was sufficient evidence to support a finding that he failed to perform in accordance with the standard of care for the profession in violation of IDAPA 10.01.02.005.02, that his conduct constituted a violation of IDAPA 10.01.02.006.01, use of seal on documents; Idaho Code Section 54-1215(3)(d), use of seal and signature under licensee's responsible charge, and without the exemption provided by Idaho Code Section 54-1223(5); IDAPA 10.01.02.004.04, misconduct; and IDAPA 10.01.02.007.01, complete, objective and truthful reports, statements or testimony for providing incomplete copies of drawings to the Board staff investigating this matter, resulting in a misrepresentation of facts concerning the investigation. Mr. Pestotnik was reprimanded by the Board and paid an administrative penalty of \$1,000 to the General Fund of the State of Idaho. He also agreed to complete, within 240 days, three courses relating to structural loads, the 2006 IBC Update, the American Wood Council course in Wood Structural Design, and a class in Engineering Ethics.

Docket No. 09.09 – IN THE MATTER OF DARIUS RUEN, P.E. Mr. Ruen stipulated that there was sufficient evidence to support a finding that he failed to place his professional engineer seal and signature and date on a report submitted to a public agency or, alternatively, mark the exhibit as "draft" or with similar words in violation of Idaho Code Section 54-1215(3)(b). Mr. Ruen was admonished by the Board and paid an administrative penalty of \$250 to the General Fund of the State of Idaho.

Docket No. 09.11 – IN THE MATTER OF LOREN JALBERT, P.E. Mr. Jalbert stipulated that his work on a project was inferior to the acceptable standard of care of the profession in violation of IDAPA 10.01.02.005.02, that his conduct in the matter constituted a violation of IDAPA 10.01.02.005.06, obligation to communicate with clients, and IDAPA 10.01.02.007.01, making complete, objective and truthful reports, statements or testimony. Mr. Jalbert was admonished by the Board and paid an administrative penalty of \$1,000 to the General Fund of the State of Idaho.

Docket No. 09.12 – IN THE MATTER OF MARK J. WEIGAND, P.L.S. Mr. Weigand stipulated that there was sufficient evidence to support a finding that he failed to place his professional land surveyor seal and signature and date on a report and calculations he presented to a public official and he failed to seal, sign and date an exhibit attached to that report, or, alternatively, mark the exhibit as "draft" or with similar words in violation of Idaho Code Section 54-1215(3)(b). In addition, he failed to notify another professional land surveyor of a material discrepancy, error, or omission in the other professional land surveyors work, in violation of Administrative Rule IDAPA 10.01.02.005.04. Mr. Weigand was admonished by the Board and paid an administrative penalty of \$500 to the General Fund of the State of Idaho.

Docket No. 09.16 – IN THE MATTER OF BERNARD SUTTON, P.L.S. Mr. Sutton’s license to practice land surveying in the state of Oregon was revoked for reasons which would have been violations in Idaho had they occurred here. Mr. Sutton’s license as a professional land surveyor in Idaho is not current. Mr. Sutton stipulated to not make application for renewal or reinstatement of his Idaho license at any time in the future and agreed that if he files an application for licensing reinstatement with the Idaho Board that such application can be rejected and denied without any further notice or proceeding.

IN MEMORY OF THOSE RECENTLY DECEASED

Tom S. Baker, CE/LS 2229, Mack’s Inn, ID
Maurice E. Byrne, EE 597, Boise, ID
James F. “Jim” Feeney, CE/SE 4775, Boise, ID
Dirk Gombert, II, ChE 4610, Idaho Falls, ID
James G. Mecham, CE 850, Unknown
Paul Alfred Oakes, EE 866, Boise, ID
Keith Warren Oldemeyer, ME 6592, Meridian, ID
Thomas E. Russell, CE 4427, Cottonwood, AZ
Allen J. Saxton, EI 5436, Tremonton, UT
John C. Slonaker, LS 8024, Boise, ID
R.J. Tallent, EE 1050, Weiser, ID
Thomas E. Vik, CE 7006, Neenah, WI