



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Department of Licensing

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: September 19, 2002

(2) Purpose: To repeal chapter 196-27 WAC in its entirety and replace it with a completely new rewritten chapter 196-27A WAC. The reason for rewriting the chapter was to modernize the language, improve clarity, put the language into a positive format, establish a set of expectations for engineers and land surveyors to strive for in their professional practice, include issues that are pertinent to current and future practice and include a section that lists "Explicit acts of misconduct".

(3) Citation of existing rules affected by this order:
Repealed: WAC 196-27-010; WAC 196-27-020
Amended:
Suspended:

(4) Statutory authority for adoption: RCW 18.43.035
Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making) *7/22/02 WRS*

Adopted under notice filed as WSR 02-15-139 on August 7, 2002 (date).
Describe any changes other than editing from proposed to adopted version: There were three word changes from the proposed to adopted version. In WAC 196-27A-020(1)(b), "products" was changed to "documents" and "plans" was changed to "products". In WAC 196-27A-030(6), the word "products" was deleted from the sentence.

EMERGENCY RULE ONLY

- Under RCW 34.05.350 the agency for good cause finds:
- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 - (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:
 Yes No If Yes, explain:

(6) Effective date of rule:

- | | |
|--|--|
| Permanent Rules | Emergency Rules |
| <input checked="" type="checkbox"/> 31 days after filing | <input type="checkbox"/> Immediately |
| <input type="checkbox"/> Other (specify) _____* | <input type="checkbox"/> Later (specify) _____ |

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)
George A. Twiss

Signature
George A. Twiss

Title
Executive Director

Date
11/08/2002

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

NOV 12 2002

TIME 11:59 AM

WSR 02-23-027 PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>3</u>	Amended	_____	Repealed	<u>2</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>3</u>	Amended	_____	Repealed	<u>2</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Chapter 196-27A WAC

RULES OF PROFESSIONAL CONDUCT AND PRACTICE

NEW SECTION

WAC 196-27A-010 Purpose and applicability. (1) RCW 18.43.110 provides the board of registration for professional engineers and land surveyors (board) with the exclusive power to fine and reprimand registrants and suspend or revoke the certificate of registration of any registrant for violation of any provisions of chapter 18.43 or 18.235 RCW. This includes, as stated in RCW 18.43.105(11), "Committing any other act, or failing to act, which act or failure are customarily regarded as being contrary to the accepted professional conduct or standard generally expected of those practicing engineering or land surveying." The purpose of chapter 196-27A WAC is to provide further guidance to registrants with respect to the accepted professional conduct and practice generally expected of those practicing engineering or land surveying.

(2) These rules of professional conduct and practice are applicable to all registrants and engineering/land surveying firms. A registrant is any person holding a certificate or license issued in accordance with chapter 18.43 RCW and an engineering/land surveying firm is one that has been issued a certificate of authorization to practice by the board.

(3) All persons, corporations, joint stock associations and limited liability companies registered under the provisions of chapter 18.43 RCW are charged with having knowledge of, and practicing in accordance with, the provisions of this chapter.

NEW SECTION

WAC 196-27A-020 Fundamental canons and guidelines for professional conduct and practice. Registrants are to safeguard life, health, and property and promote the welfare of the public. To that end, registrants have obligations to the public, their employers and clients, other registrants and the board.

(1) **Registrant's obligation to the public.**

(a) Registrants are obligated to be honest, fair and timely in their dealings with the public, their clients and other licensed professionals.

(b) Registrants must be able to demonstrate that their final documents and work products conform to accepted standards.

(c) Registrants must inform their clients or employers of the harm that may come to the life, health, property and welfare of the public at such time as their professional judgment is overruled or disregarded. If the harm rises to the level of an imminent threat, the registrant is also obligated to inform the appropriate regulatory agency.

(d) Registrants shall maintain their competency by continuing their professional development throughout their careers and shall provide opportunities for the professional development of those individuals under their supervision.

(e) Registrants shall be objective and truthful in professional documents, reports, public and private statements and testimony; all material facts, and sufficient information to support conclusions or opinions expressed, must be included in said documents, reports, statements and testimony. Registrants shall not knowingly falsify, misrepresent or conceal a material fact in offering or providing services to a client or employer.

(f) Registrants shall offer their services in a truthful, objective, professional manner that effects integrity and fosters public trust in the engineering and land surveying professions.

(g) Registrants should endeavor to extend the public knowledge of engineering and land surveying.

(h) Registrants shall accurately represent their academic credentials, professional qualifications and experience.

(i) Registrants may advertise professional services only in ways that are representative of their qualifications, experience and capabilities.

(j) Registrants shall forbid the use of their name or firm name by any person or firm that is engaging in fraudulent or dishonest business or professional practices.

(2) Registrant's obligation to employer and clients.

(a) Registrants are expected to strive with the skill, diligence and judgment exercised by the prudent practitioner, to achieve the goals and objectives agreed upon with their client or employer. They are also expected to promptly inform the client or employer of progress and changes in conditions that may affect the appropriateness or achievability of some or all of the goals and objectives of the client or employer.

(b) Registrants and their clients should have a clear and documented understanding and acceptance of the work to be performed by the registrant for the client. The registrant should maintain good records throughout the duration of the project to document progress, problems, changes in expectations, design modifications, agreements reached, dates and subject of conversations, dates of transmittals and other pertinent records consistent with prudent professional practice.

(c) Registrants shall seal only documents prepared by them or

under their direct supervision as required by RCW 18.43.070.

(d) Registrants shall be competent in the technology and knowledgeable of the codes and regulations applicable to the services they perform.

(e) Registrants must be qualified by education or experience in the technical field of engineering or land surveying applicable to services performed.

(f) Registrants may accept primary contractual responsibility requiring education or experience outside of their own fields of competence, provided, their services are restricted to those parts and aspects of the project in which they are qualified. Other qualified registrants shall perform and stamp the work for other parts and aspects of the project.

(g) Registrants shall act as faithful agents or trustees in professional matters for each employer or client.

(h) Registrants shall advise their employers or clients in a timely manner when, as a result of their studies and their professional judgment, they believe a project will not be successful.

(i) Registrants shall avoid conflicts of interest, or the appearance of a conflict of interest, with their employers or clients. Registrants must promptly inform their employers or clients of any business association, interest, or circumstances that could influence their judgment or the quality of their services or would give the appearance that an existing business association, interest, or circumstances could result in influencing their judgment or the quality of their services.

(j) Registrants shall accept compensation from only one party for services rendered on a specific project, unless the circumstances are fully disclosed and agreed to by the parties of interest.

(3) Registrant's obligation to other registrants.

(a) If registrants issue statements, critiques, evaluations or arguments on engineering or land surveying matters, they shall clearly indicate on whose behalf the statements are made.

(b) Registrants shall negotiate contracts for professional services fairly and on the basis of demonstrated competence and qualifications for the type of services required.

(c) Registrants shall respond to inquiries from other registrants regarding their work in a timely, fair and honest manner as would be expected from a prudent practitioner.

(4) Registrant's obligation to the board.

(a) Registrants shall cooperate with the board by providing, in a timely manner, all records and information requested in writing by the board, or their designee.

(b) Registrants shall respond to, or appear before the board at the time, date and location so stated in a legally served board order.

(c) Registrants shall notify the board of suspected violations of chapter 18.43 or 18.235 RCW or of these rules by providing factual information in writing to convey the knowledge or reason(s) to believe another person or firm may be in violation.

NEW SECTION

WAC 196-27A-030 Explicit acts of misconduct. In addition to any failure to conform with the requirements of chapter 18.43 or 18.235 RCW, or this chapter, the following acts and any act or condition listed in RCW 18.235.130, are explicitly defined as misconduct in the practice of engineering and/or land surveying.

(1) Aiding or abetting the unsupervised practice of engineering or land surveying in the state by a person or firm that is not registered in accordance with chapter 18.43 RCW, or, aiding or abetting an unlicensed person to practice or operate a business or profession when a license is required.

(2) The practice of engineering or land surveying by a registrant when the registrant's license is retired (see WAC 196-25-100(6)), expired, suspended or revoked.

(3) Failing to comply with the terms and conditions of an order issued by the board.

(4) Failing to provide relevant information on plans and surveys in a clear manner consistent with prudent practice.

(5) Failing to comply with the provisions of the Survey Recording Act, chapter 58.09 RCW and the survey standards, chapter 332-130 WAC.

(6) Failing to respond to inquiries from clients, or other professionals regarding conflicts with the registrant's work, opinions or procedures, in a manner that would be expected from a prudent practitioner.

(7) Failing to correct engineering or land surveying documents or drawings known to contain substantive errors.

(8) Failing to notify a client or employer that a project could not, or would not, be completed once that assessment is made.

(9) Modifying another licensee's work without notifying that licensee, and clearly delineating the modifications and sealing and signing the modifications made; EXCEPT where the plans, maps, or documents are modified by the owner to reflect changes over time for their own purposes and are not used for submittals or bid documents.

(10) Offering or accepting money, goods or other favors as inducement to receive favorable consideration for a professional assignment, or as an inducement to approve, authorize or influence the granting of a professional assignment.

(11) Soliciting or accepting gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with clients or employers in connection with work for which the registrant is responsible.

(12) Using privileged information coming to registrants in the course of their assignments as a means of making personal profit beyond their professional compensation.

(13) Requesting, proposing, or accepting professional commissions on a contingent basis under circumstances in which the registrant's integrity may be compromised.

(14) Willfully attempting to interfere with a board investigation by falsifying records, making false statements and intimidating or influencing witnesses.

(15) Willfully attempting to suborn another person to violate the law or administrative code, public policy or their code of professional ethics.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 196-27-010

Purpose and definitions.

WAC 196-27-020

Fundamental canons and guidelines for professional practice.