

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 94-173

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

a. 1993 Wisconsin Act 465 does not appear to regulate the practice of landscape architecture by an individual not registered as a landscape architect. See the changes made to 1993 Assembly Bill 100 by Senate Substitute Amendment 1 to Assembly Bill 100. A number of provisions in the rule arguably appear to regulate the practice of landscape architecture by an unregistered individual. The entire rule, as it relates to landscape architects, should be reviewed for this potential problem. Provisions of the rule warranting particular attention in this regard include: ss. A-E 2.02 (4) and (6) and 2.03 (2) (e); and most provisions of ch. A-E 8 affected by the rule [regarding the latter provisions, see the use of “registered landscape architect” in s. 443.11, Stats., as affected by Act 465].

b. Do the last sentences of ss. A-E 9.05 (6) (b) and 10.05 (6) (b) conflict with s. 443.09 (6), Stats., that provides that the examination papers of each applicant “shall be available to the applicant for review for a one-year period from the date of examination”?

c. In s. A-E 10.05 (2), the references to four years, three years, six years and five years of professional experience in geologic work in pars. (a) 1 and 2 and (b) 1 and 2, respectively, should be compared to the provisions of s. 443.037, Stats. It appears that the rule and statutory language conflict.

2. Form, Style and Placement in Administrative Code

a. In the statement of statutes interpreted in the analysis, the references to “(3) (g)” and “(6) (k)” should be replaced by references to “(3g)” and “(6k),” respectively.

b. In item 6 of the analysis, it appears that the correct cross-reference is “s. 443.037 (2), Stats.”

c. In s. A-E 9.01, the word “This” should be replaced by the word “The.”

d. It is suggested that the address contained in s. A-E 9.02 be placed in a note to this section. [See s. 1.09 (2), Manual.] [See, also, ss. A-E 9.05 (6) (b), 10.02 and 10.05 (6) (b).]

e. The structure of s. A-E 9.03 (1) needs amending. Paragraphs (a) to (g) do not follow grammatically from the introduction in sub. (1). Either the introduction should grammatically lead into the following subunits or pars. (a) to (g) should be restyled as subsections. [It also should be noted that, in the introduction to sub. (1), the notation “subs.” is incorrect when referring to paragraphs. The correct notation is “pars.”] [See, also, s. A-E 10.03 (1).]

f. Regarding the use of the slashed term, “staking/construction,” in s. A-E 9.03 (1) (f), see s. 1.01 (9) (a), Manual. Several other slashed terms are used in the rule.

g. In the first sentences of subs. (1) and (2) of s. A-E 9.04, the use of “shall accept” and “accepts” should be made consistent. In that same section, the link of sub. (3) to the previous two subsections is unclear; it appears that sub. (3) is intended to relate back to sub. (1). It is suggested that the provisions in sub. (3) be combined with the provisions in sub. (1). Also, in sub. (3), the word “must” should be replaced by the word “shall.”

h. In pars. (a) and (b) of s. A-E 9.05 (1), the phrase “sit for and” should be eliminated. Also, the phrase “all applicants” should be replaced by the phrase “an applicant.” [See, also, s. A-E 10.05 (1).]

i. In s. A-E 9.05 (2), the correct method of citation is “ss. 443.035 (1) (a) or (b) and 443.09 (2), Stats.”

j. In s. A-E 9.05 (3), it appears that the word “applicant” should be replaced by the word “application.” However, the entire sentence should be rewritten in the active voice to read as follows: “An applicant for initial registration shall file an application for examination with the board not less than 2 months before the scheduled date of the examination.” [See, also, s. A-E 10.05 (3).]

k. In s. A-E 9.05 (6) (a), the word “Any” should be replaced by the word “An.” Also, in par. (b), it appears that the word “an” should be inserted after the word “schedule.”

l. The introductory clause of s. A-E 9.06 does not indicate what application is being referred to. [See, also, s. A-E 10.06.]

m. Section A-E 9.06 (1) refers to transcripts submitted directly to the board. If the transcripts are submitted directly to the board, they cannot be included in the application. Compare s. A-E 9.03 (3).

n. In s. A-E 9.06 (3), first sentence, “shall” should be deleted and “be” should be replaced by “are.”

o. Section A-E 9.06 (5) should indicate in some way that the requirement is relevant only if applicable. [See, also, s. A-E 10.06 (7).]

p. In s. A-E 9.06 (7), if the phrase “the section” refers to a section of the board, the rule should be amended appropriately to clarify this. [See, also, s. A-E 10.06 (9).]

q. Section A-E 10.06 (1) requires transcripts to be submitted directly to the board. Therefore, such transcripts will not be included with the application. Compare the requirements of this subsection with s. A-E 10.04 (2).

4. Adequacy of References to Related Statutes, Rules and Forms

a. It is recommended that s. A-E 9.02 cross-reference s. A-E 9.06. [See, also, ss. A-E 10.02 and 10.06.]

b. In s. A-E 9.03 (1) (e), a citation to the U.S. Code should be included with a reference to the Americans With Disabilities Act.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. A-E 9.03 (1) (intro.), second sentence, “provides” should be “provide.” The statement in the provision that “experience in all areas is not required” is vague and implies that determination of requisite experience will be made on a case-by-case basis. Even if the latter is intended, can additional guidance be given to prospective applicants? [See, also, s. A-E 10.03 (1) (intro.).]

b. In s. A-E 9.03 (1) (d), the word “a” should be inserted before the phrase “client’s goals.”

c. In s. A-E 9.03 (1) (e), “and” should replace the second comma.

d. In s. A-E 9.03 (1) (g), a semicolon should follow “orders.”

e. In s. A-E 9.04 (2), is it clear that all states have the equivalent of a “state board of education?” [See, also, s. A-E 10.04 (1).]

f. In s. A-E 9.05 (1) (b), commas should surround “administered by the section.” Does the examining board intend to require an examination on barrier-free design of an applicant who has taken an equivalent test in another jurisdiction?

g. In s. A-E 10.03 (1) (L), “formulations” should be in the singular.

h. Section A-E 10.06 (4) raises a transition issue. Should the requirement that the forms be completed by registered professional geologists be delayed until December 31, 1995? Compare sub. (5). In general, the entire rule should be reviewed to determine the need for any additional transitional provisions.