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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 11-014

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In several places in the analysis, a number is spelled out, followed by the numeral in parentheses. It is sufficient just to use the numeral. For example, in the description of SECTION 3, “7” should replace “seven (7)”.

b. An entire administrative code chapter should be created in one SECTION of the rule-making order, which would read: “SECTION 1. Chapter A-E 13 is created to read:”. All of the other SECTIONS and treatment clauses should be deleted.

c. Section A-E 13.02 (2) combines two terms into one definition. “College semester hour” should be defined separately from “college quarter hour.” In addition, all of the substantive material in this and other definitions should be moved to the substantive portions of the rule. For example, the material in sub. (5) is not definitional, but is rather a substantive requirement. The definitions in current ss. A-E 10.02, 11.02, and 12.02 should be reviewed since they do not contain the type of substantive requirements contained in proposed s. A-E 13.02.

d. Section A-E 13.03 (1) (c) states that a registrant may obtain 13 professional development hours (PDHs) for classes attended in a “traditional classroom setting, computer conferencing, or interactive video conference”. These methods are not listed in the examples of qualifying activities under s. A-E 13.04. Instead, different terms are used in s. A-E 13.04, such as “webinar”. The agency should consider using the same terms throughout the chapter.

e. Section A-E 13.07 (7) should be written in the active voice: “A registrant shall maintain...”.

f. In s. A-E 13.08 (2), what does “sufficient hours” mean? Does this term mean 30 PDHs? If so, then this term should be replaced with “30 PDHs”. If the term “sufficient hours” means something different, who determines this?

g. Section A-E 13.10 is unclear. What does the term “delinquent PDHs” mean? Also, if someone is delinquent for more than one year, it appears that he or she must still report 30 PDHs for each biennium that he or she was delinquent. However, s. A-E 13.03 (3) prohibits that person from being able to practice professional engineering.

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

a. Section A-E 1.01 articulates that rules in chs. A-E 1 to 9 are adopted under the authority of ss. 15.08 (5) (b), 227.11, and ch. 443, Stats. Because ch. A-E 13 is also adopted under those sections, it appears that s. A-E 1.01 should be amended to also include ch. A-E 13. The agency may also wish to do this for chs. A-E 10 to 12. A similar change is suggested in s. A-E 1.02 (intro.)

b. Section A-E 2.01 states that the requirements listed in ch. A-E 2 are general requirements and then states that specific requirements for architects, professional engineers, designers, and land surveyors are specified in chs. A-E 3-7 and 9. The agency should consider adding chs. A-E 10 to 13 to this list.

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

a. The definition of a PDH is unclear. In the beginning, s. A-E 13.02 (7) states that a PDH “means a period of not less than 50 minutes of actual instruction”. Does this mean that a PDH could equal 55, 60, 90, or more minutes of actual instruction? It appears that the agency means that a PDH “means 50 minutes of actual instruction”. The definition also states that PDHs “should be rounded down to the nearest half hour and reported in increments of a half hour...”. Does this mean that a registrant may receive half of a PDH? If a person receives half of a PDH, how many minutes does that person have to spend in actual instruction, 25 minutes, 30 minutes, or more? Also, the relationship between PDHs, college semester hours, college quarter hours, and continuing education units would be clearer if the “definitions” were placed in substantive provisions of the rule.

b. Section A-E 13.03 (1) (c) limits the number of PDHs a registrant may obtain for classes attended by various methods to 13 PDHs. These methods are the “traditional classroom setting, computer conferencing, or interactive video conference”. How is a person to earn the remaining 17 PDHs each biennium? Looking at s. A-E 13.04, it appears that this requires the registrant to obtain the 17 PDHs by attending a technical or professional society meeting. Is this the agency’s intent? If so, then the agency should clarify that this is required.

c. The verb tense in s. A-E 13.03 (2) (a) through (g) is inconsistent. For example, pars. (a) and (b) start with the verb “completion”, but par. (c) starts with the verb “presenting”. Section A-E 13.03 (2) should be revised so that all verbs have the same tense.

d. It is unclear why the qualifying activities listed in s. A-E 13.04 are examples. If this is not an exclusive list, who has the authority to decide otherwise? If there are other activities that may qualify for PDHs, then ch. A-E 13 should expressly state who has the authority to make this decision.

e. Section A-E 13.05 (2) states that the professional engineer section has final authority in various matters. It appears from other sections in ch. A-E 13 that it has other authority to exercise discretion and audit. The agency should consider adding a section to ch. A-E 13 that articulates the section’s authority.

f. In ss. A-E 13.07 (1) and 13.08 (3), the word “biennium” should be rewritten to be plural.

g. It is unclear why s. A-E 13.07 (3) is needed for recordkeeping. It appears that this really is for reporting purposes. The agency should consider moving this requirement to a more appropriate section.