



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 15-040

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 December 2014.]

1. Statutory Authority

a. Sections 443.03, 443.035, and 443.06, Stats., provide statutory authority related to the registration of architects and landscape architects, and licensure of professional land surveyors, respectively. It appears that these statutes are being interpreted by the rule because the rule amends the registration of architects and landscape architects, and licensure of professional land surveyors. As such, these statutes should be listed under the statutes interpreted section of the rule summary. [s. 1.02 (2m) (a) and (b), Manual.]

b. Statutory authority for the examinations of architects, landscape architects, professional engineers, and professional land surveyors are provided under ss. 443.06 and 443.09, Stats. It appears that these statutes are being interpreted by the rule because the rule amends certain examination procedures, including the examination application timeline. As such, these statutes should be listed under the statutes interpreted section of the rule summary. [s. 1.02 (2m) (a) and (b), Manual.]

c. 2013 Wisconsin Act 358 amended requirements related to professional land surveyors that resulted in the changes made in SECTION 5 of the proposed rule. This Act, as well as 2013 Wisconsin Act 114, should be listed under both the explanation of agency authority and plain language analysis sections of the rule summary.

2. Form, Style and Placement in Administrative Code

a. Currently, ss. A-E 3.02, 4.02, 6.02, and 9.02 address the applications for registration of architects, landscape architects, professional engineers, and professional land surveyors using the same structure and phrasing in each section's title and text. However, SECTION 1 of the proposed rule repeals and recreates s. A-E 3.02 with a different title and text structure from those sections. SECTIONS 4 and 9 appear to make similar changes in chs. A-E 6 and A-E 9, as SECTION 1 does for ch. A-E 3. However, instead of repealing and recreating the section, SECTION 4 creates a new section, s. A-E 6.025, and SECTION 9 uses cross-references to the statutes. The board could determine what structure it prefers, and revise the sections accordingly, so that the rules are internally consistent.

b. In SECTION 5 of the proposed rule, the strike-through and underscoring of the statute citations should be removed, and only the portion for "(a) and" should be shown with a strike-through.

c. The proposed rule repeals ss. A-E 3.05 (3), 4.07 (3), and 6.05 (4), which currently specify how far in advance of an examination to become a registered architect, registered professional engineers, or licensed professional land surveyor an application may be submitted. The rule does not repeal the comparable requirement for registration as a landscape architect, found in s. A-E 9.05 (3). It appears that the board has the authority to make these determinations under ss. 443.06 (1), and 443.09, Stats. The board should review these changes and determine whether it intends to be consistent in repealing all administrative code provisions related to when examination applications must be submitted.

d. The rule repeals s. A-E 6.05 (5), which specifies that an examination for professional land surveyor licensure must be held at the time, date, and site designated by the board. The rule does not, however, repeal similar provisions found in ss. A-E 3.05 (5), 4.07 (5), and 9.05 (5). It appears that the board has the authority to make these determinations under ss. 443.06 (1) and 443.09, Stats. The board should review the rule and determine whether it intends to be consistent in repealing all administrative code provisions related to the place and time of examinations.

e. The plain language analysis states that the rule updates the administrative code to reflect the changes made by 2013 Wisconsin Act 114. Specifically, the Act prohibits the department and its credentialing boards from requiring a person to complete any post-secondary education or other program before being eligible to take an examination for a credential granted or issued by the department or board. However, the proposed rule also makes changes to all of the following procedures, which are not mentioned in the plain language analysis: (1) registration of architects; (2) landscape architect registration; and (3) professional land surveyor licensure and education. While the plain language summary is not intended to be an exhaustive discussion of the rule, it should contain sufficient detail to enable the reader to understand the content of the rule, and the changes made if any, in existing rules. [s. 1.02 (2) (b), Manual.] As such, the plain language analysis should include a discussion of these additional changes.

f. The reference to 2013 Wisconsin Act 114 should be removed from the statutory authority section of the rule summary, and any applicable specific statutes should instead be listed.

3. Conflict With or Duplication of Existing Rules

In s. A-E 6.05 (3), the proposed rule specifies the time period within which a person must take and pass the following two examinations for licensure as a professional land surveyor: (1) the fundamentals of surveying examination; and (2) the national principles and practice surveying examination. However, s. A-E 6.05 (1) references a third examination: the state jurisdictional examination, which is relative to Wisconsin specific practice. To avoid confusion as to how many examinations an applicant must take, the board should clarify what is required with respect to the jurisdictional examination.

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

a. Currently, s. A-E 6.05 (9) includes a reference to s. 443.09 (6), Stats., which was repealed in 2011 Wisconsin Act 146. A note to sub. (9) states that this will be removed in future rule-making by the board. Because SECTION 8 of the proposed rule repeals other provisions found in s. A-E 6.05, the board could consider also repealing sub. (9).

b. The rule created under SECTION 9 cross-references ss. 443.035 (1) (a) or (b), and 443.09 (4m), Stats. However, s. 443.035 (2), Stats., already contains a cross-reference to s. 443.09, Stats. As such, it appears that a general cross-reference to s. 443.035, Stats., by itself, would be sufficient. The board should review the two cross-references listed in SECTION 9 and determine whether a general cross-reference to s. 443.035, Stats., achieves its intent.