

Clearinghouse Rule 17-060

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL
LAND SURVEYORS

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS, : ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS, : ARCHITECTS PROFESSIONAL
PROFESSIONAL ENGINEERS, : ENGINEERS, DESIGNERS, AND
DESIGNERS, AND PROFESSIONAL : PROFESSIONAL LAND
LAND SURVEYORS : SURVEYORS ADOPTING
: RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to repeal A-E 13.05 (2) (a) to (d) and 13.10; to renumber and amend A-E 13.05 (2) (intro.); to amend A-E 13.03 (3), 13.08 (5) and (6), and 13.09; and to create A-E 13.05 (1m) and 13.06 (1m), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 443.015 (1), Stats.

Statutory authority:

ss. 15.08 (5) (b), 227.11 (2) (a), and 443.015 (1), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides examining boards, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains...”

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency, “may promulgate rules interpreting provisions of any statute enforced or administered by the agency. . .but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 443.015 (1), Stats., provides that each section of the examining board “may establish continuing education requirements for renewal of a credential issued by that section under this chapter.”

Related statute or rule:

Chapter A-E 10 provides continuing education requirements for professional land surveyors. Chapter A-E 11 provides continuing education requirements for landscape architects. Chapter A-E 12 provides continuing education requirements for architects.

Plain language analysis:

The proposed rules specify approved providers of continuing education, which will result in more transparent and consistent approval of continuing education. This change also will provide professional engineers greater assurance that the time and money spent on obtaining continuing education will satisfy the requirements set in administrative code.

Current rules require late renewal applicants to submit a record with information providing proof of compliance with the continuing education requirements. The proposed rules require late renewal applicants to follow the same procedures as those applicants who renew prior to the established renewal date. The change would require late renewal applicants to 1) certify on the application full compliance with the continuing education requirements and 2) maintain records of completed continuing education.

There are other proposed amendments to provide clarity and consistency in the chapter.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

Professional development hour (PDH) requirements for professional engineers are set forth in 68 Ill. Adm. Code 1380.325. The following are identified as acceptable providers for structured educational activities:

- National Council of Examiners for Engineering and Surveying (NCEES)
- National Society of Professional Engineers (NSPE)
- Illinois Society of Professional Engineers (ISPE)
- American Council of Engineering Companies of Illinois (ACEC-IL)
- Technical or professional societies or organizations relating to professional engineering, including the American Society of Civil Engineers (ASCE)
- Colleges, universities, or other educational institutions
- Other technical or professional societies or organizations, including manufacturers

Upon satisfactory evidence of compliance with PDH requirements, a nonrenewed license is restored upon payment of the required fee.

Iowa:

Professional development hour (PDH) requirements for professional engineers and land surveyors are set forth in 193C IAC 7.1 to 7.8. The rules do not specifically identify acceptable or approved providers of education nor provide requirements for late renewal of a license different than those for timely renewal.

Michigan:

Continuing education requirements for professional engineers are set forth in Mich Admin Code, R 339.16040 to R 338.7150. The rules do not specifically identify acceptable or approved providers of education nor provide requirements for late renewal of a license different than those for timely renewal.

Minnesota:

Professional development hour (PDH) requirements for professional engineers, land surveyors, landscape architects, geoscientists, and interior designers are set forth in MN Statute 326.107. The statutes do not specifically identify acceptable or approved providers of education nor provide requirements for late renewal of a license different than those for timely renewal.

Summary of factual data and analytical methodologies:

The proposed rules were developed in consultation with the Professional Engineer Section. A department-prepared list of current education providers was reviewed, as well as adjacent states' statutes and administrative rules relating to continuing education.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 121A, Madison, WI 53708-8366, or by email to: DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 9:00 am on October 4, 2017 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. A-E 13.03 (1) (a) is amended to read:

A-E 13.03 (1) (a) ~~Beginning in the biennial registration period commencing August 1, 2012 and ending July 31, 2014, unless~~ Unless granted a waiver under s. A-E 13.08, during each biennial registration period, every registrant shall complete at least 30 hours of approved PDHs or equivalent continuing education units, pertinent to the practice of professional engineering, except that between initial registration and the first renewal period, a new registrant shall not be required to comply with the continuing education requirements for the first renewal of registration.

SECTION 2. A-E 13.03 (3) is amended to read:

A-E 13.03 (3) Except as provided in s. A-E 13.08, a professional engineer who fails to meet the continuing education requirements by the renewal date, as specified in s. 440.08 (2) (a) 35., Stats., may not engage in the practice of professional engineering until the registration is renewed ~~in accordance with ss. A-E 2.05 and 13.10 based upon compliance with the continuing education requirements under this chapter.~~

SECTION 3. A-E 13.05 (1m) is created to read:

A-E 13.05 (1m) The professional engineer section may approve providers for continuing education programs, including the following:

- (a) A school of engineering approved by the educational approval board.
- (b) Colleges, universities, and other degree granting institutions approved by an accrediting agency published by the United States Department of Education.
- (c) National Council of Examiners for Engineering and Surveying or its affiliates.
- (d) National Society of Professional Engineers or its affiliates.
- (e) National Council of Structural Engineers Association or its affiliates.

- (f) American Council of Engineering Companies or its affiliates.
- (g) American Society of Civil Engineers or its affiliates.
- (h) American Society of Mechanical Engineers or its affiliates.
- (i) American Society of Plumbing Engineers or its affiliates.
- (j) American Society of Heating, Refrigerating, and Air-Conditioning Engineers or its affiliates.
- (k) Occupational Safety and Health Administration Training Institute Education Centers.
- (L) Federal Highway Administration.
- (m) Federal Emergency Management Agency.
- (n) National Highway Institute.
- (o) Homeland Security Systems Engineering and Development Institute.
- (p) National Fire Protection Association.
- (q) Institute of Electrical and Electronics Engineers.
- (r) Other providers as approved by the professional engineer section or its designee.

SECTION 4. A-E 13.05 (2) (intro.) is renumbered A-E 13.05 (2) and amended to read:

A-E 13.05 (2) The professional engineer section has final authority with respect to acceptance of activities, courses, credit, PDH value for courses, and other methods of earning PDHs, ~~except the following are examples of accepted providers for continuing education programs:~~

SECTION 5. A-E 13.05 (2) (a) to (d) are repealed.

SECTION 6. A-E 13.06 (1m) is created to read:

A-E 13.06 (1m) The professional engineer section may require additional evidence demonstrating compliance with the continuing education requirements under this chapter, including a certificate of attendance or documentation of completion or credit for the courses completed.

SECTION 7. A-E 13.08 (5) and (6) are amended to read:

A-E 13.08 (5) A renewal applicant who receives a waiver under sub. (4) may not engage in the practice of professional engineering until ~~he or she meets the requirements of s. A-E 13.10~~ the registration is renewed based upon compliance with the continuing education requirements under this chapter.

(6) A renewal applicant, who prior to the expiration date of the license submits a request for a waiver, pays the renewal fee and provides a statement setting forth the facts concerning noncompliance and the basis of the request, shall be deemed to be in good standing until the final decision on the application is issued by the professional engineer section. If a finding of extreme hardship is not determined, an applicant may not engage in the practice of professional engineering until ~~he or she meets the requirements of s. A-E 13.10~~ the registration is renewed based upon compliance with the continuing education requirements under this chapter.

SECTION 8. A-E 13.09 is amended to read:

~~A-E 13.09 Comity.~~ An Reciprocity. The professional engineer section may require an applicant for registration from another state who applies for registration to practice professional engineering under s. A-E 4.08 (2), ~~shall to~~ submit proof of completion of 30 PDHs of qualifying continuing education that complies with the requirements of ~~ch. A-E 13~~ this chapter within the 2 year period prior to their application. However, an applicant by ~~comity~~ reciprocity who has received his or her first license as a professional engineer within the last two years shall be exempt from meeting the 30 PDHs specified in s. A-E 13.03 (1) as required for continuing education requirements and shall not be required to comply with the continuing education requirements for their first renewal of registration.

SECTION 9. A-E 13.10 is repealed.

SECTION 10. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
