

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

IN THE MATTER OF RULEMAKING	:	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 SURVEYORS
LAND SURVEYORS	:	ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 036-20, was approved by the Governor on May 7, 2020, published in Register 773A2 on May 11, 2020, and approved by the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors on July 17, 2020.

This emergency rule was approved by the Governor on October 9, 2020.

ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to **repeal** A-E 13.08 (4) and (5); to **amend** A-E 12.08 (title), (3), and (5) to (8); and to **create** A-E 2.045, 10.035, 11.035, 12.035, and 13.035, relating to retired credential status.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Legislature, by SECTION 4 of 2019 Wisconsin Act 94, provides an exemption from a finding of emergency for the promulgation of this rule.

ANALYSIS

Statutes interpreted:

Section 443.015 (1m), Stats.

Statutory authority:

Sections 15.08 (5) (b) and 443.015 (1) and (1m), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains...”

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

Section 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, requires each section of the A-E Board to promulgate rules that do all of the following:

- Allow the holder of a credential under ch. 443, Stats., who is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive, and has retired from and no longer engages in the practice for which the credential is held, to apply to the A-E Board to classify that credential as retired status.
- Allow an individual who previously held a credential under ch. 443, Stats., and failed to renew that credential prior to the renewal date, to apply to the A-E Board to renew the credential with retired status if the individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive; has retired from and no longer engages in the practice for which the credential was previously held; and pays the applicable fee.
- Allow the holder of a credential classified as retired status to apply to the appropriate Section of the A-E Board to remove the retired status classification if the credential holder satisfies reinstatement requirements established by the appropriate Section of the A-E Board by rule.

Related statute or rule:

None.

Plain language analysis:

As required under s. 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, the emergency rules create provisions to do all of the following:

- Allow the holder of a credential under ch. 443, Stats., who is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive, and has retired from and no longer engages in the practice for which the credential is held, to apply to the appropriate section of the A-E Board to classify the credential as retired status.
- Allow an individual who previously held a credential under ch. 443, Stats., and failed to renew the credential prior to the renewal date, to apply to the appropriate section of the A-E Board to renew the credential with retired status if the individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive; has retired from and no longer engages in the practice for which the credential was held; and pays the applicable fee.
- Allow the holder of a credential classified as retired status to apply to the appropriate section of the A-E Board to remove the retired status classification if the credential holder satisfies the reinstatement requirements under s. A-E 2.05 (2).

- Provide that continuing education requirements do not apply to renewal of a credential classified as retired status.

The emergency rules also revise s. A-E 12.08 to reference a waiver from continuing education requirements instead of an exemption from continuing education requirements. The updated terminology is consistent with that used in chs. A-E 10, 11, and 13.

Finally, the emergency rules remove provisions in s. A-E 13.08 concerning a request for a waiver from continuing education requirements based on retirement. As the emergency rules create a retired credential status, these provisions are no longer necessary.

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

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation provide an inactive status for architects [68 Ill. Adm. Code 1150.65], engineers [68 Ill. Adm. Code 1380.285], and professional land surveyors [68 Ill. Adm. Code 1270.35]. A request for inactive status must be made in writing on a form prescribed by the Department. An architect, engineer, or professional land surveyor in inactive status is exempt from renewal fees and continuing education requirements.

The rules also provide requirements for the restoration to active status of architects [68 Ill. Adm. Code 1150.70], engineers [68 Ill. Adm. Code 1380.270], and professional land surveyors [68 Ill. Adm. Code 1270.40]. Restoration of a license placed on inactive status for 5 years or less (3 years or less for architects) requires payment of a renewal fee and compliance with continuing education requirements. Restoration of a license placed on inactive status for more than 5 years (more than 3 years for architects) to active status requires payment of restoration fees, compliance with continuing education requirements, and demonstration of active practice or continued competence.

Illinois does not issue permits or similar credentials for designers of engineering systems or landscape architects.

Iowa:

Within the requirements for renewal, rules of the Iowa Architectural Examining Board [193B IAC 2.5 (2)], Iowa Engineering and Land Surveying Examining Board [193C IAC 3.4 (11)], and Iowa Landscape Architectural Examining Board [193D IAC 2.8 (8)] provide an inactive status for their licensees. Licensees in inactive status are subject to reduced renewal fees and are exempt from continuing education requirements.

The rules also provide requirements for the reinstatement to active status of architects [193B IAC 2.7 (1)], engineers and land surveyors [193C IAC 3.5 (4)], and landscape

architects [193D IAC 2.9 (2)]. Reinstatement requires the applicant to pay a fee, comply with continuing education requirements and, for architects and landscape architects, submit a written statement affirming the applicant did not practice in Iowa while in inactive status.

Iowa does not issue permits or similar credentials for designers of engineering systems.

Michigan:

Michigan does not provide a retired or inactive licensure status for architects, engineers, professional land surveyors, or landscape architects, and does not issue permits or similar credentials for designers of engineering systems.

Minnesota:

Minnesota does not provide a retired or inactive licensure status for architects, engineers, professional land surveyors, or landscape architects, and does not issue permits or similar credentials for designers of engineering systems. However, the Minnesota Statutes allow an individual who retires to use the designation architect, professional engineer, land surveyor, or landscape architect, as long as the designation is preceded by the word "retired" and the individual was licensed in the designated profession in the state of Minnesota on the date the individual retired from the designated profession and the individual's license was not subsequently revoked by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design [2019 Minnesota Statutes, Section 326.02, Subd. 1.].

Summary of factual data and analytical methodologies:

The emergency rules were developed by reviewing the provisions of s. 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, and obtaining input and feedback from the Rules Committee of the A-E Board.

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

The fiscal estimate submitted with the bill associated with 2019 Wisconsin Act 94 was used in the department's analysis. The emergency rules have no new or additional impact.

Fiscal estimate:

Please see the fiscal estimate submitted with the bill associated with 2019 Wisconsin Act 94. The emergency rules have no new or additional impact.

Effect on small business:

These emergency 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on these emergency rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Legislature's website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. A-E 2.045 is created to read:

A-E 2.045 Retired credential status.

(1) The holder of a credential under ch. 443, Stats., may apply to the appropriate section of the board to classify the credential as retired status. The section shall classify the credential as retired status if all of the following requirements are met:

(a) The credential holder completes an application on a form provided by the board.

(b) The credential holder is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive.

(c) The credential holder certifies they have retired from and no longer engage in the practice for which the credential is held. The certification under this paragraph is not required to be notarized.

(2) Notwithstanding s. A-E 2.05, an individual who previously held a credential under ch. 443, Stats., and failed to renew the credential prior to the renewal date, may apply to the appropriate section of the board to renew the credential with retired status. A credential shall be renewed with retired status if all of the following requirements are met:

(a) The individual completes an application on a form provided by the board.

(b) The individual pays the fee under s. 443.015 (1m) (d), Stats.

(c) The individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive.

(d) The individual certifies they have retired from and no longer engage in the practice for which the credential was held. The certification under this paragraph is not required to be notarized.

(3) The holder of a credential classified as retired status under sub. (1) or (2) may apply to the appropriate section of the examining board to remove the retired status classification. The section shall remove the retired status classification if the applicant satisfies the reinstatement requirements under s. A-E 2.05 (2).

(4) A credential classified as retired status under sub. (1) or (2) shall be renewed upon payment of the fee under s. 443.015 (1m) (d), Stats.

SECTION 2. A-E 10.035 is created to read:

A-E 10.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 3. A-E 11.035 is created to read:

A-E 11.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 4. A-E 12.035 is created to read:

A-E 12.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 5. A-E 12.08 (title), (3), and (5) to (8) are amended to read:

A-E 12.08 (title) ~~Exemption~~ Waiver of continuing education.

(3) A registrant seeking to renew a registration who demonstrates that compliance with the continuing education requirements shall create an extreme hardship may request ~~an exemption from~~ a waiver of the continuing education requirements.

(5) A registrant who requests ~~an exemption from~~ a waiver of the continuing education requirements for extreme hardship shall file a renewal application along with the required registration fee and submit an affidavit which describes the circumstances of the hardship and provide any supporting documentation. The request for ~~an exemption~~ a waiver shall be submitted prior to the renewal date.

(6) If the architect section finds from the affidavit or any other evidence submitted that extreme hardship has been shown for granting ~~an exemption~~ a waiver, the registrant shall be permitted to renew the registration without completing the continuing education requirements for the applicable renewal period.

(7) A registrant who receives ~~an exemption from~~ a waiver of continuing education on the basis of extreme hardship due to an incapacitating disability, medical illness, active military duty or other extenuating circumstances may be required to complete continuing education upon his or her return to the active practice of architecture as determined necessary by the architect section to ensure the ability of the registrant to practice architecture in a safe and competent manner.

(8) A registrant shall be deemed to be in good standing until a final decision on the request for ~~exemption~~ a waiver has been made.

SECTION 6. A-E 13.035 is created to read:

A-E 13.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 7. A-E 13.08 (4) and (5) are repealed.

SECTION 8. EFFECTIVE DATE. The rules adopted in this order shall take effect on December 1, 2020, pursuant to s. 227.22 (2) (c), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chair
Professional Engineer Section
Examining Board of Architects, Landscape
Architects, Professional Engineers,
Designers, and Professional Land Surveyors