

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

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS, : ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS, : ARCHITECTS, PROFESSIONAL
PROFESSIONAL ENGINEERS, : ENGINEERS, DESIGNERS AND LAND
DESIGNERS AND LAND SURVEYORS : SURVEYORS ADOPTING RULES
: (CLEARINGHOUSE RULE 04-119)

ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors to repeal A-E 4.08 (1) (c); and to amend A-E 4.05 (1) (c), (2) (b), (3) (c) and (4) (c), relating to the barrier free design parts of the board's examinations for professional engineers.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statute interpreted:

Section 443.09 (5), Stats.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2), Stats.

Explanation of agency authority:

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors has the authority under Wis. Stat. § 443.09 (4m) and (5), to approve licensure examinations, including the scope and procedure of examination. Wis. Stat. § 443.09 (5) specifies that the professional engineering examination shall include questions which require applicants to demonstrate knowledge of the design needs of people with physical disabilities. It further specifies that questions shall be developed by the examining board in consultation with the Department of Commerce. Currently, the National Council of Engineering Examination (NCEES) administers the fundamentals of engineering examination and the principles and practice of engineering examination, and the Department of Regulation and Licensing administers a separate barrier free design examination.

The board is seeking by rule to eliminate the requirement for a separate state examination, as the national principles and practice examination includes questions on barrier free design for those

applicants where such knowledge is relevant to their engineering practice. Elimination of this requirement would eliminate redundancy of examination, while still maintaining substantial compliance with the requirements of Wis. Stat. § 443.09 (5).

Related statute or rule:

There are no related statutes or rules other than those listed above.

Plain language analysis:

The purpose of the proposed rule revision is to eliminate the requirement for the state administered examination on barrier free design. The board feels requiring applicants to take a separate state examination is redundant and creates an unnecessary obstacle to licensure for applicants whose areas of engineering practice do not involve barrier free design.

The proposed rule amends s. A-E 4.05 (1) (c), (2) (b), (3) (c) and (4) (c) to remove the reference to the barrier free design parts of the examination.

The rule repeals s. A-E 4.08 (1) (c) that also relates to the barrier free design parts of the examination.

SECTION 1 removes the language that requires applicants to take and pass a state administered barrier free design examination.

SECTION 2 repeals s. A-E 4.08 (1) (c), which defines the scope of the barrier free design examination.

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

The Wisconsin Department of Commerce has incorporated into its Commercial Building Code the International Building Code and the ICC/ANSI A117.1., Standard for Accessible and Usable Buildings and Facilities to assure barrier-free accessibility and to meet the federal Americans with Disabilities Act Accessibility Guidelines. The federal government does not regulate or oversee the application process for engineers involving licensure requiring such a component like the barrier-free examination is met, and a search of the United States Code Services (USCS) and the Code of Federal Regulations (CFR) returned no entries regarding this subject. Because of the federal and state building mandates, a unit must be built conforming to stringent standards that only capable engineers and architects can meet.

Comparison with rules in adjacent states:

Wisconsin is the only state among the adjacent states that requires all engineering applicants to take the barrier free portion of the examination.

Summary of factual data and analytical methodologies:

Information was received from the National Council of Examiners for Engineering and Surveying (NCEES) that all jurisdictions in the United States, except Wisconsin, as well as U.S. territories and some Canadian provinces, do not require an examination on barrier free designs as a prerequisite for licensure. Due to the fact that Wisconsin does not license specific types of engineers, all candidates for engineering registration must take the barrier free examination although it may be irrelevant to their professional practice.

The existing state, federal, and international building codes were reviewed to establish that specific standards must be met in order to design a facility that will accommodate those with physical disabilities. Additionally, under the Wisconsin Administrative Code for Engineers, s. A-E 8.04 (3), an engineer may not perform services that they are not qualified to perform by education or experience. As a result, an engineer would not be permitted to engage in engineering which involved structures or accommodations for persons with physical disabilities without being knowledgeable in barrier free design.

Determination of significant fiscal effect on the private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The proposed rules will have no impact on the department's funds.

Effect on small business:

Pursuant to s. 227.114 (1) (a), Stats., these proposed rules will have no significant economic impact on a substantial number of small businesses. The Department's Small Business Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708. Telephone: 608-266-0495. Email: pamela.haack@drl.state.wi.us.

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

Comments may be submitted to Pamela Haack at the addresses given above. Comments must be received on or before November 26, 2004 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. A-E 4.05 (1) (c), (2) (b), (3) (c) and (4) (c) are amended to read:

A-E 4.05 (1) (c) Successful completion of the fundamentals of engineering, examination and the principles and practice of engineering ~~and the barrier free design parts of the board's examination.~~

(2) (b) Successful completion of the fundamentals of engineering, and the principles and practice of engineering ~~and the barrier free design parts of the board's examination.~~

(3) (c) Successful completion of the principles and practice of engineering ~~and the barrier free design parts of the board's examination.~~

(4) (c) Submission of a statement describing provisions of Wisconsin law which govern the practice of engineering ~~and which concern the design needs of people with physical disabilities.~~

SECTION 2. A-E 4.08 (1) (c) is repealed.

(END OF TEXT OF RULE)

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 Wis. Stats. § 227.22 (2) (intro.).

Dated _____

Agency _____

Chairperson
Examining Board of Architects, Landscape
Architects, Professional Engineers,
Designers and Land Surveyors