

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

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE :
EXAMINING BOARD OF ARCHITECTS, : NOTICE OF PUBLIC HEARING
LANDSCAPE ARCHITECTS, :
PROFESSIONAL ENGINEERS, :
DESIGNERS AND LAND SURVEYORS : (CLEARINGHOUSE RULE 11-)

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b), 227.11 (2) and 443.015, Stats., Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to create ch. A-E 13, relating to continuing education requirements for professional engineers.

Hearing Date, Time and Location

Date: April 19, 2011
Time: 1:30 p.m.
Location: 1400 East Washington Avenue
Room 121A
Madison, Wisconsin

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Division of Board Services, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by February 14, 2011, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 443.015, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 443.015, Stats.

Explanation of agency authority:

Under 2007 Act 47, codified at s. 443.015, Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors is authorized to establish rules regarding continuing education (CE) requirements for purposes of renewing the credential of individuals licensed under Ch. 443, Stats.

Related statute or rule:

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

Plain language analysis:

This proposed rule-making creates ch. A-E 13, Wis. Admin. Code, relating to continuing education requirements for the credential renewal of professional engineers within the jurisdiction of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, as permitted under s. 443.015, Stats..

SECTION 1 creates ch. A-E 13, entitled “CONTINUING EDUCATION FOR PROFESSIONAL ENGINEERS.”

SECTION 2 creates s. A-E 13.01, entitled “**Authority and purpose.**” This section provides the statutory authority for the creation of ch. A-E 13, and indicates that ch. A-E 13 implements biennial continuing education requirements for professional engineer registrants.

SECTION 3 creates s. A-E 13.02, entitled “**Definitions.**” This section defines, in numbered subsections, seven (7) terms as they are used in ch. A-E 13: (1) “biennium,” (2) “college semester hour,” (3) “continuing education,” (4) “continuing education unit” or “CEU,” (5) “course” or “activity,” (6) “EAC/ABET,” and (7) “professional development hour” or “PDH.”

SECTION 4 creates s. A-E 13.03, entitled “**Continuing education.**” This section has three (3) subsections. Subsection (1) of s. A-E 13.03 has four lettered paragraphs. Paragraph (a) provides that beginning with the August 2012 biennial registration period, all registered professional engineers who have renewed their credential one or more times shall complete at least 30 PDHs of approved continuing education each biennial period.

Paragraph (b) provides that of those 30 required PDHs, 2 must be in the area of professional conduct and ethics.

Paragraph (c) provides that of those same 30 PDHs, a maximum of 13 may be obtained through courses in either a traditional classroom setting, by computer conferencing, or by video conferencing, in which participants can communicate directly with each other and the instructor.

Paragraph (d) provides that a maximum of 15 PDHs earned in excess of the 30 required for one biennial registration period may be used toward the next biennium's continuing education requirements.

Subsection (2) of s. A-E 13.03 sets forth, in lettered paragraphs, seven (7) different means by which a registrant may satisfy his or her biennial continuing education requirements: (a) completing courses offered at an EAC/ABET-accredited engineering school or college; (b) completing short courses or tutorials and distance education courses offered via correspondence, DVD, or the internet; (c) presenting or attending seminars, in-house courses, workshops, or making professional or technical presentations at meetings, conventions, or conferences; (d) teaching or instructing any of the courses or programs listed in paragraphs (a) to (c), where the PDH earned for each hour of teaching is twice that earned for participation only; (e) publishing papers, articles, or books in the registrant's practice area, where each such publication earns 5 PDHs, and where peer-reviewed publications earn 10; (f) participating in professional and technical societies for a maximum of 4 PDHs per biennium, where participation as an officer or committee member earns 2 PDHs per year; and (g) attaining a patent in the registrant's practice area, where each such patent earns 10 PDHs.

Subsection (3) of s. A-E 13.03 provides that any registrant who fails to meet the continuing education requirements by the registration renewal date may not practice professional engineering until renewal has been achieved.

SECTION 5 creates A-E 13.04, entitled "**Examples of qualifying activities.**" This section provides five (5) examples of qualifying activities in numbered subsections.

SECTION 6 creates s. A-E 13.05, entitled "**Standards for approval.**" This section has two subsections. Subsection (1) of s. A-E 13.05 establishes, in lettered paragraphs, four criteria for approval of a continuing education program.

Subsection (2) of s. A-E 13.05 provides that the professional engineer section of the joint A-E examining board has final authority to approve continuing education courses and other methods for earning PDHs. Subsection (2) also lists, in lettered paragraphs (a) – (n), fourteen (14) approved provider entities, and in lettered paragraphs (o) and (p), two (2) general, or catch-all, categories of potential continuing education providers that may seek approval from the professional engineer section.

SECTION 7 creates s. A-E 13.06, entitled "**Certificate of completion; proof of attendance.**" This section has three (3) subsections. Subsection (1) of s. A-E 13.06 requires applicants for registration renewal to certify their compliance with the continuing education requirements of ch. A-E 13.

Subsection (2) of s. A-E 13.06 provides that the professional engineering section may randomly audit registrants biennially for continuing education compliance.

Subsection (3) of s. A-E 13.06 provides that within 30 days of receiving a written request from the section for evidence of compliance, a registrant shall submit such evidence, and that failure to do so will result in denial of the registrant's renewal application.

SECTION 8 creates s. A-E 13.07, entitled "**Recordkeeping.**" This section has three (3) numbered subsections. Subsection (1) of s. A-E 13.07 requires all registrants to maintain, on a form approved by the professional engineer section, records of having satisfied the continuing education requirements for at least the three (3) most recent biennia.

Subsection (2) of s. A-E 13.07 provides that the records maintained under subs. (1) must include evidence of registrant's attendance at, and completion of, any program providing continuing education the registrant counts toward his or her required PDHs.

Subsection (3) of s. A-E 13.07 requires registrants to convert any CEUs awarded for continuing education courses to PDHs for recordkeeping.

SECTION 9 creates s. A-E 13.08, entitled "**Waiver of continuing education.**" This section has six (6) numbered subsections. Subsection (1) of s. A-E 13.08 provides that renewal applicants may request, in writing, a waiver of the continuing education requirements for reasons of "extreme hardship." The professional engineer section, or its designee, will have sole discretion on how to address such requests.

Subsection (2) of s. A-E 13.08 defines "extreme hardship" as an inability to fulfill the continuing education requirements during a particular biennial period for one of the four (4) reasons set forth in lettered paragraphs (a) – (d). Paragraphs (a) – (c) describe specific hardship situations; paragraph (d) allows the professional engineer section to waive the requirements under any other extenuating circumstances it finds acceptable.

Subsection (3) of s. A-E 13.08 prohibits the professional engineer section from waiving continuing education requirements for the same registrant for two consecutive biennia.

Subsection (4) of s. A-E 13.08 allows the professional engineer section to waive the continuing education requirements for a renewal applicant who has maintained an active Wisconsin license for at least 30 years, provided that the applicant has retired from the profession and no longer receives compensation for his or her services.

Subsection (5) of s. A-E 13.08 prohibits a renewal applicant who has received a waiver under subs. (4) from practicing professional engineering until he or she has met the late renewal requirements set forth in s. A-E 13.10.

Subsection (6) of s. A-E 13.08 provides that a renewal applicant who has requested a continuing education waiver before his or her registration expiration date, and who pays

the renewal fee, shall remain registered in good standing until the waiver request is resolved. If waiver is denied, the applicant may not practice the profession until he or she meets the late renewal requirements, as set forth in s. A-E 13.10.

SECTION 10 creates s. A-E 13.09, entitled “**Comity.**” This section allows a professional engineer from another state to become licensed in Wisconsin upon submitting an initial licensure application and providing proof of completion of 30 acceptable PDHs in the preceding 2 years.

SECTION 11 creates s. A-E 13.10, entitled “**Late renewal.**” This section prohibits a late renewal applicant from receiving renewal registration until he or she has submitted records as specified in s. A-E 13.07 of completion of all delinquent PDHs. The maximum PDHs required under such circumstances is 60. An applicant who has not been registered for more than five (5) years is subject to the provisions of s. A-E 2.05 (2).

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

There is no existing or proposed federal regulation.

Comparison with rules in adjacent states:

Illinois:

Thirty hours of continuing education are required for professional engineers each biennial renewal.

<http://www.ilga.gov/commission/jcar/admincode/068/0680113800003250R.html>

Iowa:

Thirty hours of continuing education are required for professional engineers for each biennial renewal. <http://www.state.ia.us/government/com/prof/engineer/renewals.html>

Michigan:

There are no continuing education requirements for professional engineers. www.michigan.gov/dleg

Minnesota:

Twenty-four hours of continuing education are required for professional engineers for each biennial renewal. <http://www.aelslagid.state.mn.us/conted.html>

Summary of factual data and analytical methodologies:

The Professional Engineer Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors examined models of

continuing education from the National Council for Examiners of Engineers and Surveyors, as well as from other Wisconsin regulatory boards.

In addition, the section received input from a steering committee organized by the Wisconsin Society of Professional Engineers which included representatives of 10 professional engineering societies or trade associations. The steering committee discussed the content and operation of the proposed draft for purposes of creating a continuing education program that will be beneficial to both the public and professional engineers.

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparisons to the adjacent states demonstrate that the proposed rules are substantially consistent with the rules in those states.

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

Data was obtained from the Department of Regulation and Licensing's Credentialing Division Renewal Unit, additional information was obtained from the steering committee organized by the Wisconsin Society of Professional Engineers and research was conducted regarding the availability of continuing education credits offered via online courses, trade associations sponsored seminars and other means, as well as the costs associated therewith. That data was compared with the requirements outlined in the proposed rules and based thereon, appears that these rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Anticipated costs incurred by the private sector:

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

Fiscal estimate:

The department estimates that this rule will require staff time in the Office of Exams, Division of Board Services and Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$12,400. The total on-going salary and fringe costs are estimated at \$11,800.

Effect on small business:

These proposed rules will be reviewed by the department's Small Business Review Advisory Committee to determine whether the rules will have any significant economic

impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at john.murray@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2385; email at kristine1.anderson@wisconsin.gov.

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

Comments may be submitted to Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to kristine1.anderson@wisconsin.gov. Comments must be received on or before April 19, 2011 to be included in the record of the rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter A-E 13 is created to read:

Chapter A-E 13

CONTINUING EDUCATION FOR PROFESSIONAL ENGINEERS

SECTION 2. Section A-E 13.01 is created to read:

A-E 13.01 Authority and purpose. The rules in this chapter are adopted under the authority in ss. 15.08 (5) (b), 227.11 (2) and 443.015, Stats., and govern biennial continuing education for professional engineer registrants.

SECTION 3. Section A-E 13.02 is created to read:

A-E 13.02 Definitions. As used in this chapter:

(1) "Biennium" means a 2-year period beginning August 1 of each even-numbered year.

(2) "College semester hour" or "college quarter hour" means receiving credit for completing a regularly offered course in a school or college of engineering accredited by the EAC/ABET that has testing with a passing grade required and has provisions for additional out-of-class study requirements. Credit for college approved courses will be based upon course credit established by the college. One "college semester hour" equals 45 PDHs. One "college quarter hour" equals 30 PDHs.

Monitoring or auditing courses that do not require regular testing with a passing grade will only count the actual class contact hours.

(3) “Continuing education” means the planned, professional development activities designed to contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the registrant in the practice of professional engineering. Regular duties are not considered qualifying activities.

(4) “Continuing education unit” or “CEU” means a unit of credit customarily used for continuing education courses. One “continuing education unit” equals 10 PDHs.

(5) “Course” or “activity” means any qualifying “course” or “activity” with a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the registrant’s field of practice.

(6) “EAC/ABET” means the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

(7) “Professional development hour” or “PDH” means a period of not less than 50 minutes of actual instruction or participation spent by the registrant in actual attendance or completion of an approved educational activity. “PDHs” should be rounded down to the nearest half hour and reported in increments of half hour with no activity of under a half hour being acceptable as qualifying for “PDH” credit. “PDHs” shall not exceed the actual contact clock hours of actual attendance.

SECTION 4. Section A-E 13.03 is created to read:

A-E 13.03 Continuing education requirements. (1)(a) Beginning in the August 2012 biennial registration period, unless granted a waiver under s. A-E 13.08, every registrant shall complete at least 30 hours of approved PDHs or equivalent continuing education hours, 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.

(b) During each biennial registration period, the registrant shall complete a minimum of 2 PDHs in the area of professional conduct and ethics.

(c) During each biennial registration period, credit for a maximum of 13 PDHs shall be obtained via courses where the registrant interacts in real time in a traditional classroom setting, computer conferencing or, interactive video conference where participants are present in the same room or logged in at the same time and can communicate directly with each other and ask questions of the instructor.

(d) If a registrant obtains more than 30 PDHs in a biennium, a maximum of 15 of the excess PDHs may be used toward the continuing education requirement in the next biennium. Excess credits cannot be used to satisfy the requirements of par. (b) or (c).

(2) Continuing education may be obtained through any of the following means:

(a) Completion of courses taken at a school or college of engineering accredited by the EAC/ABET.

(b) Completion of short courses or tutorials and distance education courses offered through correspondence, DVDs, or the internet.

(c) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences.

(d) Teaching or instructing in pars. (a) to (c). PDHs may only be counted for the initial offering or presentation of a course or program. Full-time faculty may not claim PDHs for teaching done as part of their regular duties. For teaching in pars. (a) to (d), multiply the PDHs earned by a factor of 2.

(e) Authoring published papers, articles, or books in the registrant's area of professional practice that has been published in book form or in circulated journals or trade magazines. Five PDHs will be granted in the biennium in which each publication occurred. For peer reviewed papers, articles, or books in the registrant's area of professional practice, 10 PDHs will be granted in the biennium in which each publication occurred.

(f) Active participation in professional and technical societies. A maximum of 2 PDHs will be awarded for active participation as an officer or committee member in any one society in any one year. A maximum of 4 PDHs may be obtained under this paragraph in any biennium. PDHs are not earned until the end of each year of service is completed.

(g) Attainment of a patent relevant to the registrant's area of professional practice. Ten PDHs will be awarded for each patent.

(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.

SECTION 5. Section A-E 13.04 is created to read:

A-E 13.04 Examples of qualifying activities. The following are examples of qualifying activities:

(1) Completing or attending courses, seminars, instruction, in-house programs, or training of engineering content related to the registrant's field of practice.

(2) Attending technical or professional society meetings when an engineering topic is presented as a principal part of the program.

(3) Teaching a course for the first time or teaching a course previously taught if substantial time was spent in updating material.

(4) Attending webinar courses where attendance is verified and program material meets the requirements.

(5) Completing correspondence courses on an engineering topic where lessons are prepared and returned for correction, grading, or both, and where testing at the end of the course is required.

SECTION 6. Section A-E 13.05 is created to read:

A-E 13.05 Standards for approval. (1) To be approved for PDHs, a continuing education program shall meet all of the following criteria:

(a) The program includes instruction in an organized method of learning contributing directly to the professional competency of the registrant and pertaining to subject matters which integrally relate to the practice of the profession.

(b) The program is conducted by individuals who have specialized education, training or experience and are considered qualified concerning the subject matter of the program.

(c) The program fulfills pre-established goals and objectives.

(d) The program provides attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.

(2) The professional engineer section has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning PDHs, except the following and their subsidiaries are approved providers for continuing education programs:

(a) American Concrete Institute.

(b) American College of Engineering Companies.

- (c) American Institute of Chemical Engineers.
- (d) American Public Works Association.
- (e) American Society of Civil Engineers.
- (f) American Society of Heating, Refrigeration, and Air Conditioning Engineers.
- (g) American Society of Mechanical Engineers.
- (h) Institute of Electrical and Electronics Engineers.
- (i) Institute of Transportation Engineers.
- (j) National Society of Professional Engineers.
- (k) Society of Fire Protection Engineers.
- (L) Society of Women Engineers.
- (m) Colleges, universities or other EAC/ABET approved educational institutions approved by the professional engineer section.
- (n) Continuing education courses meeting all the requirements of the International Association for Continuing Education and Training.
- (o) Other technical or professional societies or organizations as approved by the professional engineer section or its designee.
- (p) Other providers as approved by the professional engineer section or its designee.

SECTION 7. Section A-E 13.06 is created to read:

A-E 13.06 Certificate of completion; proof of attendance. (1) Each registrant shall certify on the renewal application full compliance with the continuing education requirements set forth in this chapter.

(2) The professional engineer section may conduct a random audit of its registrants on a biennial basis for compliance with these requirements. It is the responsibility of each registrant to retain or otherwise produce evidence of compliance.

(3) If a request for evidence of compliance is requested by the professional engineer section or its designee, the registrant shall submit the requested

information or documentation within 30 days of receiving the written notice. Failure to do so will result in denial of registrant's application for renewal.

SECTION 8. Section A-E 13.07 is created to read:

A-E 13.07 Recordkeeping. (1) It shall be the responsibility of the registrant to maintain records of their continuing education units and PDHs earned for a minimum of the 3 most recent biennium on a form approved by the professional engineer section.

(2) Records required include but are not limited to attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.

(3) If a continuing education course was awarded CEUs, the CEUs shall be converted by the applicant or registrant to PDHs for recordkeeping purposes.

SECTION 9. Section A-E 13.08 is created to read:

A-E 13.08 Waiver of continuing education. (1) A renewal applicant who is unable to fully comply with the continuing education requirements due to extreme hardship may submit a written request for a waiver. The professional engineer section, or its designee, will review the request, and in its sole discretion, may grant a full or partial waiver, or extension of time to comply with the requirements.

(2) In this section, "extreme hardship" means an inability to devote sufficient hours to fulfilling the continuing education requirements during the applicable renewal period because of one of the following:

(a) Full-time service in the uniformed services of the United States for a period of at least one year during the biennium.

(b) An incapacitating illness documented by a statement from a licensed physician.

(c) A physical inability to travel to the sites of approved programs documented by a licensed physician.

(d) Any other extenuating circumstances acceptable to the professional engineer section.

(3) A renewal applicant may not receive a waiver under sub. (2) (b) or (c) for 2 consecutive biennium.

(4) A renewal applicant who has maintained an active Wisconsin license for a minimum of 30 consecutive years may, at the discretion of the professional engineer section or its designee, receive a waiver upon request and certification that the applicant

has retired from the profession and is no longer receiving remuneration for providing professional engineering services.

(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.

(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.

SECTION 10. Section A-E 13.09 is created to read:

A-E 13.09 Comity. An applicant for registration from another state who applies for registration to practice professional engineering under s. A-E 4.09 (2), shall submit proof of completion of 30 PDHs of qualifying continuing education that complies with the requirements of s. A-E 13.10 within the 2 year period prior to their application.

SECTION 11. Section A-E 13.10 is created to read:

A-E 13.10 Late renewal. A renewal applicant who has failed to renew his or her credential by the established renewal date shall obtain all delinquent PDHs and submit a record with information as specified under s. A-E 13.07 prior to the registrant's registration being renewed. If the total delinquent PDHs exceed 60, then 60 shall be the maximum required for late renewal. An applicant who has failed to be registered for a period greater than 5 years shall be subject to the provisions of s. A-E 2.05 (2).

(END OF TEXT OF RULE)

COPIES OF RULE

Copies of this proposed rule are available upon request to Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Kristine1.Anderson@wisconsin.gov.