

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

IN THE MATTER OF RULEMAKING	:	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 SURVEYORS
LAND SURVEYORS	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 20-064)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to **repeal** A-E 13.02 (2) and (3) and 13.08 (4) and (5); to **amend** A-E 10.03 (1) (a), 11.03 (1) (a), 12.03 (1), and 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.

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 proposed rules create provisions to do all of the following:

- Allow the holder of a credential as an architect, landscape architect, professional engineer, designer, or professional land surveyor to apply to the appropriate section of the A-E Board to classify the credential as retired status. To qualify for retired status, the credential holder must be at least 65 years of age or have actively maintained the credential issued by the section for at least 20 years, which need not be consecutive, and certify he or she has retired from and no longer engages in any activity in Wisconsin that requires a credential issued by the section.
- Allow an individual who previously held a credential as an architect, landscape architect, professional engineer, designer, or professional land surveyor, 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. To qualify for retired status, the individual must be at least 65 years of age or have actively maintained the credential issued by the section for at least 20 years, which need not be consecutive; certify he or she has retired from and no longer engages in any activity in Wisconsin that requires a credential issued by the section; and pay 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 proposed rules also revise ss. A-E 12.03 and 12.08 to reference a waiver from continuing education requirements instead of an exemption from continuing education requirements, and remove obsolete references to the 2012 biennial registration period from chs. A-E 10, 11, and 12. These updates bring consistency to the terminology used in chs. A-E 10, 11, 12, and 13.

Finally, the proposed rules remove 2 obsolete definitions in s. A-E 13.02 and provisions in s. A-E 13.08 concerning a request for a waiver from continuing education requirements based on retirement. As the proposed rules create a retired credential status, the provisions in s. A-E 13.08 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 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 proposed rules were 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. No comments were received.

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 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, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to

DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held on the proposed rules. Information concerning the date, time, and location of the public hearing will be posted on the Legislature's website and published 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 meets one of the following requirements:

1. The credential holder is at least 65 years of age.

2. The credential holder has actively maintained the credential issued by the section for at least 20 years, which need not be consecutive.

(c) The credential holder certifies he or she has retired from and no longer engages in any activity in this state that requires a credential issued by the section. 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 meets one of the following requirements:

1. The individual is at least 65 years of age.

2. The individual had actively maintained the credential issued by the section for at least 20 years, which need not be consecutive.

(d) The individual certifies he or she has retired from and no longer engages in any activity in this state that requires a credential issued by the section. 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 10.03 (1) (a) is amended to read:

A-E 10.03 (1) (a) ~~Beginning in the February 2012~~ During each biennial registration period, unless granted a waiver under s. A-E 10.07, every licensee shall complete at least 20 hours of approved professional development hours or equivalent continuing education hours, pertinent to the practice of professional land surveying, except that between initial licensure and the first renewal period, a new licensee shall not be required to comply with the continuing education requirements for the first renewal of licensure.

SECTION 3. A-E 10.035 is created to read:

A-E 10.035 Exemption for retired credential status. Notwithstanding s. A-E 10.03 (1), 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 11.03 (1) (a) is amended to read:

A-E 11.03 (1) (a) ~~Prior to the August 2012 biennial registration period and in~~ During each biennial registration period ~~thereafter~~, unless granted a waiver under s. A-E 11.07, every registrant shall complete at least 24 hours of approved continuing education except that between initial registration and the first renewal period a new registrant is not required to comply with the requirements for the first renewal of registration.

SECTION 5. A-E 11.035 is created to read:

A-E 11.035 Exemption for retired credential status. Notwithstanding s. A-E 11.03 (1), 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 6. A-E 12.03 (1) is amended to read:

A-E 12.03 (1) ~~Prior to the August 2012 biennial registration period and the 2-year period preceding~~ During each biennial registration period, unless granted ~~an exemption a~~ a waiver under s. A-E 12.08, every registrant shall complete at least 24 contact hours of continuing education, of which 16 contact hours shall be in HSW topics pertinent to the practice of architecture.

SECTION 7. A-E 12.035 is created to read:

A-E 12.035 Exemption for retired credential status. Notwithstanding s. A-E 12.03 (1), 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 8. 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 9. A-E 13.02 (2) and (3) are repealed.

SECTION 10. A-E 13.035 is created to read:

A-E 13.035 Exemption for retired credential status. Notwithstanding s. A-E 13.03 (1), 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 11. A-E 13.08 (4) and (5) are repealed.

SECTION 12. 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)

This Proposed Order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chair
Rules Committee
Examining Board of Architects, Landscape
Architects, Professional Engineers,
Designers, and Professional Land Surveyors