



**PROFESSIONAL ENGINEER SECTION
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND SURVEYORS
Room N206, 4822 Madison Yards Way, Madison
Contact: Erin Karow (608) 266-2112
August 30, 2018**

The following agenda describes the issues that the Section plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Section.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-3)**
- B) Approval of Minutes of June 25, 2018 (4-6)**
- C) Administrative Matters**
 - 1. Department Updates
 - 2. Board Updates
- D) Legislative and Administrative Rule Matters – Discussion and Consideration (7-14)**
 - 1. 2017 Wisconsin Act 108 Report
 - a. Review of Possible Report Contents for A-E 4, Relating to Professional Engineer Registration
 - b. Review of Possible Report Contents for A-E 13, Relating to Continuing Education for Professional Engineers
 - 2. A-E 4, Relating to Professional Engineer Registration, Scope Statement
 - 3. Update on Pending Legislation and Pending and Possible Rulemaking Projects
- E) Speaking Engagement(s), Travel, or Public Relation Request(s)**
 - 1) Travel Report from Mark Mayer Regarding the NCEES Central Zone Interim Meeting on May 3-5, 2018 in Rapid City, South Dakota
 - 2) Travel Report from Mark Mayer Regarding the NCEES Annual Meeting on August 14-18, 2018 in Scottsdale, Arizona
 - 3) Travel Request to Attend NCEES Engineering Education Award Ceremony at the University of Wisconsin-Madison Department of Civil and Environmental Engineering on September 21, 2018 in Madison, Wisconsin
- F) Deliberation on Items Added After Preparation of Agenda:**
 - 1. Introductions, Announcements and Recognition
 - 2. Election of Officers

3. Appointment of Liaison(s)
4. Delegation of Authorities
5. Administrative Matters
6. Education and Examination Matters
7. Credentialing Matters
8. Practice Matters
9. Legislative/Administrative Rule Matters
10. Liaison Reports
11. Board Liaison Training and Appointment of Mentors
12. Informational Items
13. Disciplinary Matters
14. Presentations of Petitions for Summary Suspension
15. Petitions for Designation of Hearing Examiner
16. Presentation of Stipulations, Final Decisions and Orders
17. Presentation of Stipulations and Interim Orders
18. Presentation of Proposed Final Decision and Orders
19. Presentation of Interim Orders
20. Petitions for Re-Hearing
21. Petitions for Assessments
22. Petitions to Vacate Orders
23. Requests for Disciplinary Proceeding Presentations
24. Motions
25. Petitions
26. Appearances from Requests Received or Renewed
27. Speaking Engagement(s), Travel, or Public Relation Request(s)

G) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

H) Credentialing Matters (15-16)

1. Application Reviews

I) Deliberation of Items Added After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. Disciplinary Matters
4. Monitoring Matters
5. Professional Assistance Procedure (PAP) Matters
6. Petitions for Summary Suspensions
7. Petitions for Designation of Hearing Examiner
8. Stipulations, Final Decisions and Order
9. Stipulations and Interim Orders
10. Administrative Warnings
11. Review of Administrative Warnings
12. Proposed Final Decision and Orders
13. Matters Relating to Costs/Orders Fixing Costs
14. Case Closings
15. Board Liaison Training
16. Proposed Interim Orders

17. Petitions for Assessments and Evaluations
18. Petitions to Vacate Orders
19. Remedial Education Cases
20. Motions
21. Petitions for Re-Hearing
22. Appearances from Requests Received or Renewed

J) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- K) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate
- L) Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING DATE: SEPTEMBER 26, 2018

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**PROFESSIONAL ENGINEER SECTION
OF THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND PROFESSIONAL LAND SURVEYORS
MEETING MINUTES
June 25, 2018**

PRESENT: Kristine Cotharn (*via GoToMeeting*), Steven Hook, Mark Mayer

STAFF: Erin Karow, Executive Director; and Kate Stolarzyk, Bureau Assistant; and other Department staff

CALL TO ORDER

Mark Mayer, Chair, called the meeting to order at 8:30 a.m. A quorum of three (3) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda:

- Under Item I. “Deliberation on Division of Legal Services and Compliance (DLSC) Matters, 2. Proposed Stipulations, Final Decisions, and Orders ADD:
 - “b. 17 ENG 004 – Douglas L. Weinkauf”

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to approve the minutes of January 5, 2018 as published. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

A-E 4, Relating to Professional Engineer Registration, Scope Statement

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to designate Mark Mayer to serve as liaison to DSPS staff for drafting A-E 4, relating to Professional Engineer Registration. Motion carried unanimously.

SPEAKING ENGAGEMENT(S), TRAVEL, OR PUBLIC RELATIONS REQUEST(S)

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to designate and authorize Erin Karow, Executive Director, to attend and speak on behalf of the Engineer Section at the NCEES Annual Meeting in Scottsdale, AZ – August 14-17, 2018. Motion carried unanimously.

CLOSED SESSION

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). The Chair read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Kristine Cotharn – yes; Steven Hook – yes; Mark Mayer – yes. Motion carried unanimously.

The Section convened into closed session at 9:05 a.m.

RECONVENE TO OPEN SESSION

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to reconvene in Open Session. Motion carried unanimously.

Open session reconvened at 9:31 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to affirm all votes made in closed session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Administrative Warning

16 ENG 014 – S.B.M.

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to issue an Administrative Warning in the matter of S.B.M., DLSC Case Number 16 ENG 014. Motion carried unanimously.

16 ENG 014 – T.K.G.

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to issue an Administrative Warning in the matter of T.K.G., DLSC Case Number 16 ENG 014. Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

16 ENG 014 – Henneman Engineering, Inc.

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Henneman Engineering, Inc., DLSC case number 16 ENG 014. Motion carried unanimously.

17 ENG 004 – Douglas L. Weinkauf

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Douglas L. Weinkauf, DLSC case number 17 ENG 004. Motion carried unanimously.

Case Closings

16 ENG 014 – S.J. and A.H.

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to close DLSC case number 16 ENG 014 against S.J. and A.H. for No Violation. Motion carried unanimously.

17 ENG 001 – D.W.

MOTION: Steven Hook moved, seconded by Kristine Cotharn, to close DLSC case number 17 ENG 001 against D.W. for No Violation. Motion carried unanimously.

ADJOURNMENT

MOTION: Kristine Cotharn moved, seconded by Steven Hook, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 9:34 a.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Helen Leong, Administrative Rules Coordinator		2) Date When Request Submitted: August 20, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Professional Engineer Section, Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors			
4) Meeting Date: August 30, 2018	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 1) 2017 Wisconsin Act 108 Report a. Review of Possible Report Contents for A-E 4, relating to Professional Engineer Registration b. Review of Possible Report Contents for A-E 13, relating to Continuing Education for Professional Engineers 2) A-E 4, relating to Professional Engineer Registration, Scope Statement	
7) Place Item in: <input type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: 1) Review s. 227.29, Stats., criteria for the upcoming Act 108 Report. 2) Review the chapter to determine what amendments are needed to update the chapter.			
11) Authorization			
Signature of person making this request		Date	
<i>Helen Leong</i>		<i>August 20, 2018</i>	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

(L) *Emergency rules.* If the committee suspends an emergency rule under this section, the agency may not submit to the legislature under s. 227.19 (2) the substance of the emergency rule as a proposed permanent rule during the time the emergency rule is suspended.

(3) **PUBLIC HEARINGS BY STATE AGENCIES.** By a majority vote of a quorum of the committee, the committee may require any agency to hold a public hearing in respect to recommendations made under sub. (2) and to report its action to the committee within the time specified by the committee. The agency shall publish a class 1 notice, under ch. 985, of the hearing in the official state newspaper and give any other notice which the committee directs. The hearing shall be conducted in accordance with s. 227.18 and shall be held not more than 60 days after receipt of notice of the requirement.

(4) **REPEAL OF UNAUTHORIZED RULES.** (a) In this subsection, “unauthorized rule” means a rule that an agency lacks the authority to promulgate due to the repeal or amendment of the law that previously authorized its promulgation.

(b) Notwithstanding ss. 227.114 to 227.117 and 227.135 to 227.19, an agency that promulgated or that otherwise administers a rule that the agency determines is an unauthorized rule shall petition the joint committee for review of administrative rules for authorization to repeal that rule by using the following process:

1. The agency shall submit a petition with a proposed rule that repeals the rule the agency has determined is an unauthorized rule to the legislative council staff for review. The proposed rule shall be in the form required under s. 227.14 (1) and shall include the material required under s. 227.14 (2) (a) 1., 2., and 7. and a statement that the agency is petitioning the joint committee for review of administrative rules to use the process under this subsection to repeal a rule the agency has determined to be an unauthorized rule. The agency shall also send an electronic copy of the petition and the proposed rule to the legislative reference bureau, in a format approved by the legislative reference bureau, for publication in the register.

2. The legislative council staff shall review the petition and proposed rule in accordance with s. 227.15 (2) and submit to the joint committee for review of administrative rules the petition and proposed rule with a written report including a statement of its determination as to whether the proposed rule proposes to repeal an unauthorized rule. The legislative council staff shall send the agency a copy of its report with an indication of the date on which the petition and proposed rule were submitted to the committee.

3. Following receipt of the petition and proposed rule submitted by the legislative council staff under subd. 2., the joint committee for review of administrative rules shall review the petition and proposed rule and may do any of the following:

- a. Approve the agency’s petition if the committee determines that the proposed rule would repeal an unauthorized rule.
- b. Deny the agency’s petition.
- c. Request that the agency make changes to the proposed rule and resubmit the petition and proposed rule under subd. 1.

4. The committee shall inform the agency in writing of its decision as to the petition.

(c) If the joint committee for review of administrative rules approves a petition to repeal an unauthorized rule as provided in par. (b) 3. a., the agency shall promulgate the proposed rule by filing a certified copy of the rule with the legislative reference bureau under s. 227.20, together with a copy of the committee’s decision.

History: 1985 a. 182 ss. 1, 3, 50; 1987 a. 186; 2005 a. 249; 2017 a. 108.

Rule suspension under sub. (2) (d) does not violate the separation of powers doctrine. *Martinez v. DILHR*, 165 Wis. 2d 687, 478 N.W.2d 582 (1992).

A collective bargaining agreement between the regents and the teaching assistants association is not subject to review by the committee. 59 Atty. Gen. 200.

In giving notice of public hearings held under sub. (2), the committee should concurrently employ the various forms of notice available that best fit the particular circumstances. 62 Atty. Gen. 299.

If an administrative rule is properly adopted and is within the power of the legislature to delegate there is no material difference between it and a law. No law, including

a valid rule can be revoked by a joint resolution of the legislature as such a resolution deprives the executive its power to veto an act of the legislature. 63 Atty. Gen. 159.

Legislative committee review of administrative rules in Wisconsin. Bunn and Gallagher. 1977 WLR 935.

227.265 Repeal or modification of rules. If a bill to repeal or modify a rule is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply. Instead, the legislative reference bureau shall publish the repeal or modification in the Wisconsin administrative code and register as required under s. 35.93, and the repeal or modification shall take effect as provided in s. 227.22.

History: 2013 a. 125, 136, 210, 277, 278, 295, 320, 332, 361, 363.

227.27 Construction of administrative rules. (1) In construing rules, ss. 990.001, 990.01, 990.03 (1), (2) and (4), 990.04 and 990.06 apply in the same manner in which they apply to statutes, except that ss. 990.001 and 990.01 do not apply if the construction would produce a result that is inconsistent with the manifest intent of the agency.

(2) The code shall be prima facie evidence in all courts and proceedings as provided by s. 889.01, but this does not preclude reference to or, in case of a discrepancy, control over a rule filed with the legislative reference bureau under s. 227.20 or modified under s. 227.265, and the certified copy of a rule shall also and in the same degree be prima facie evidence in all courts and proceedings.

History: 1983 a. 544; 1985 a. 182 ss. 22, 55 (2), (3); Stats. 1985 s. 227.27; 2005 a. 249; 2007 a. 20; 2013 a. 125, 136, 210, 277, 278, 295, 320, 332, 361, 363.

227.29 Agency review of rules and enactments. (1) By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by that agency:

(a) Unauthorized rules, as defined in s. 227.26 (4) (a), together with a description of the legislation that eliminated the agency’s authority to promulgate any such rule.

(b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.

(c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.

(d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.

(e) Rules that the agency determines are economically burdensome.

(2) The report under sub. (1) shall also include all of the following:

(a) A description of the agency’s actions, if any, to address each rule listed in the report. If the agency has not taken any action to address a rule listed in the report, the agency shall include an explanation for not taking action.

(b) A description of the status of each rule listed in the previous year’s report not otherwise listed.

(c) If the agency determines that there is no rule as described under sub. (1) (a), (b), (c), (d), or (e), a statement of that determination.

(3) If an agency identifies an unauthorized rule under sub. (1) (a) and is not otherwise in the process of promulgating a rule that repeals the unauthorized rule, the agency shall, within 30 days after the agency submits the report, submit a petition to the legislative council staff under s. 227.26 (4) (b) 1. to repeal the unauthorized rule if the agency has not previously done so.

(4) (a) In this subsection, “enactment” means an act or a portion of an act that is required to be published under s. 35.095 (3) (a).

(b) Each agency shall review enactments to determine whether any part of an enactment does any of the following:

1. Eliminates or restricts the agency's authority to promulgate any rules promulgated or otherwise administered by that agency.
2. Renders any rules promulgated or otherwise administered by that agency obsolete or unnecessary.
3. Renders, for any reason, any rules promulgated or otherwise administered by that agency not in conformity with or superseded by a state statute, including due to statutory numbering or terminology changes in the enactment.
4. Requires or otherwise necessitates rule making by the agency.

(c) If an agency determines that any consequence specified in par. (b) 1. to 4. results from an enactment or part of an enactment, within 6 months after the applicable effective date for the enactment or part of the enactment, the agency shall do one or more of the following, as applicable, to address the consequence identified by the agency and notify the joint committee for review of administrative rules of its action:

1. Submit a statement of the scope of a proposed rule under s. 227.135 (2), unless the enactment requires otherwise or unless the agency submits a notice to the committee explaining why it is unable to submit the statement of scope within that time period and an estimate of when the agency plans to submit the statement of scope.
2. In the case of an affected rule that the agency determines is an unauthorized rule, as defined in s. 227.26 (4) (a), submit a petition to the legislative council staff under s. 227.26 (4) (b) 1.
3. In the case of a consequence specified under par. (b) 3. that can be addressed by the legislative reference bureau using its authority under s. 13.92 (4) (b), submit a request to the legislative reference bureau to use that authority.

History: 2017 a. 108.

227.30 Review of administrative rules or guidelines.

(1) The small business regulatory review board may review the rules and guidelines of any agency to determine whether any of those rules or guidelines place an unnecessary burden on the ability of small businesses, as defined in s. 227.114 (1), to conduct their affairs. If the board determines that a rule or guideline places an unnecessary burden on the ability of a small business to conduct its affairs, the board shall submit a report and recommendations regarding the rule or guideline to the joint committee for review of administrative rules and to the agency.

(2) When reviewing the report, the joint committee for review of administrative rules shall consider all of the following:

- (a) The continued need for the rule or guideline.
- (b) The nature of the complaints and comments received from the public regarding the rule or guideline.
- (c) The complexity of the rule or guideline.
- (d) The extent to which the rule or guideline overlaps, duplicates, or conflicts with federal regulations, other state rules, or local ordinances.
- (e) The length of time since the rule or guideline has been evaluated.
- (f) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the rule or guideline since the rule or guideline was promulgated.

(3) The joint committee for review of administrative rules may refer the report regarding the rule or guideline to the presiding officer of each house of the legislature for referral to a committee under s. 227.19 (2) or may review the rule or guideline as provided under s. 227.26.

History: 2003 a. 145; 2005 a. 249.

SUBCHAPTER III

ADMINISTRATIVE ACTIONS AND JUDICIAL REVIEW

Cross-reference: See also ch. NR 2, Wis. adm. code.

227.40 Declaratory judgment proceedings. (1) Except as provided in sub. (2), the exclusive means of judicial review of the validity of a rule shall be an action for declaratory judgment as to the validity of the rule brought in the circuit court for the county where the party asserting the invalidity of the rule resides or has its principal place of business or, if that party is a nonresident or does not have its principal place of business in this state, in the circuit court for the county where the dispute arose. The officer or other agency whose rule is involved shall be the party defendant. The summons in the action shall be served as provided in s. 801.11 (3) and by delivering a copy to that officer or, if the agency is composed of more than one person, to the secretary or clerk of the agency or to any member of the agency. The court shall render a declaratory judgment in the action only when it appears from the complaint and the supporting evidence that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the plaintiff. A declaratory judgment may be rendered whether or not the plaintiff has first requested the agency to pass upon the validity of the rule in question.

(2) The validity of a rule may be determined in any of the following judicial proceedings when material therein:

(a) Any civil proceeding by the state or any officer or agency thereof to enforce a statute or to recover thereunder, provided such proceeding is not based upon a matter as to which the opposing party is accorded an administrative review or a judicial review by other provisions of the statutes and such opposing party has failed to exercise such right to review so accorded.

(b) Criminal prosecutions.

(c) Proceedings or prosecutions for violations of county or municipal ordinances.

(d) Habeas corpus proceedings relating to criminal prosecution.

(e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), 106.50, 106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or 949 for review of decisions and orders of administrative agencies if the validity of the rule involved was duly challenged in the proceeding before the agency in which the order or decision sought to be reviewed was made or entered.

(f) Proceedings under s. 227.114 (6m).

(3) In any judicial proceeding other than one set out above, in which the invalidity of a rule is material to the cause of action or any defense thereto, the assertion of such invalidity shall be set forth in the pleading of the party so maintaining the invalidity of such rule in that proceeding. The party so asserting the invalidity of such rule shall, within 30 days after the service of the pleading in which the party sets forth such invalidity, apply to the court in which such proceedings are had for an order suspending the trial of said proceeding until after a determination of the validity of said rule in an action for declaratory judgment under sub. (1) hereof.

(a) Upon the hearing of such application if the court is satisfied that the validity of such rule is material to the issues of the case, an order shall be entered staying the trial of said proceeding until the rendition of a final declaratory judgment in proceedings to be instituted forthwith by the party asserting the invalidity of such rule. If the court shall find that the asserted invalidity of a rule is not material to the case, an order shall be entered denying the application for stay.

(b) Upon the entry of a final order in said declaratory judgment action, it shall be the duty of the party who asserts the invalidity

STATEMENT OF SCOPE

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

Rule No.: A-E 4

Relating to: Professional Engineer Registration

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

Not applicable.

2. Detailed description of the objective of the proposed rule:

The Professional Engineer Section of the Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors Board (A-E Board) has determined that chapter A-E 4, relating to Professional Engineer Registration, needs to be reviewed and potentially amended to reflect current best practices and to update the chapter to conform to other rule changes.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

A full review of A-E 4 will be undertaken to review and potentially amend to reflect current best practices and to update the rule. The National Council of Examiners for Engineering and Surveying® (NCEES) has developed national standards for uniform continuing education and transcript reporting, and these standards may be incorporated into A-E 4. Additionally, other rule projects require a review of A-E 4 to ensure that regulatory provisions remain consistent in application and practice. Finally, to clarify the existing A-E code, inconsistent language relating to reciprocity will be reviewed to ensure consistency and clarity.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

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

Section 443.04, Stats., relating to registration requirements for professional engineers, states, "an applicant for registration as a professional engineer shall submit satisfactory evidence to the professional engineer section of the examining board of all of the following: (1m) A diploma of graduation, or a certificate, from an engineering school or college approved by the professional engineer section as of satisfactory standing in an engineering course of not less than 4 years or a diploma of graduation or degree from a technical college approved by the professional engineer section as of satisfactory standing in an engineering-related course of study of not less than 2 years. (2m) (a) For an applicant possessing a diploma or certificate from a course of study of not less than 4 years as specified in sub. (1m), a specific record of 4 or more years of experience in engineering work of a character satisfactory to the professional engineer section and indicating that the applicant is competent to be placed in responsible charge of engineering work. (b) For an applicant possessing a diploma or degree from a course of study of not less than 2 years as specified in sub. (1m), a specific record of 6 or more years of experience in engineering work of a character satisfactory to the professional engineer section and indicating that the applicant is competent to be placed in responsible charge of engineering work."

Section 443.05, Stats., relating to certification of engineers-in-training, states, "(1) An applicant for certification as an engineer-in-training shall submit as satisfactory evidence to the professional engineer section of the examining board one of the following: (a) A diploma of graduation in engineering or a

certificate in engineering from a school or college approved by the professional engineer section as of satisfactory standing. (b) A specific record of 4 years or more of experience in engineering work of a character satisfactory to the professional engineer section. (2) Graduation in engineering from a school or college approved by the professional engineer section as of satisfactory standing shall be considered as equivalent to 4 years of experience and the completion satisfactory to the professional engineer section of each year of work in engineering in such school or college without graduation shall be considered as equivalent to one year of experience. Graduation in a course other than engineering from a school or college approved by the professional engineer section as of satisfactory standing shall be considered as equivalent to 2 years of experience. No applicant may receive credit for more than 4 years of experience under this subsection."

Section 443.09 (4), Stats., states in part that, "written or written and oral examinations shall be required of every applicant for registration as ... a professional engineer."

Section 443.10 (1) (c), Stats., states, "the professional engineer section of the examining board may, upon application therefor, and the payment of the required fee, grant a certificate-of-record as engineer-in-training to any person who holds an unexpired certificate of similar certification issued to the person by the proper authority in any state or territory or possession of the United States or in any country in which the requirements for the certification of engineers-in-training are of a standard not lower than specified in this chapter."

Section 443.10 (2) (f), Stats., states, "the professional engineer section of the examining board shall grant a certificate of record as engineer-in-training to any applicant who, in the opinion of the professional engineer section, has satisfactorily met all the requirements of this section pertaining to engineers-in-training."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

120 hours

6. List with description of all entities that may be affected by the proposed rule:

Registered professional engineers and individuals studying to become professional engineers.

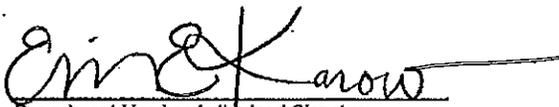
7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Helen Leong, Administrative Rules Coordinator
Division of Policy Development, Department of Safety and Professional Services
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Department Head or Authorized Signature

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Chapter A-E 4

PROFESSIONAL ENGINEER REGISTRATION

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Note: Chapter A-E 4 as it existed on February 28, 1987 was repealed and a new chapter A-E 4 was created effective March 1, 1987.

A-E 4.01 Authority and purpose. The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11, 443.04, 443.05, 443.09 and 443.10, Stats. The purpose of rules in this chapter is to interpret basic education, experience and examination requirements for registration as a professional engineer as specified in ss. 443.04, 443.05, 443.09 and 443.10, Stats.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87.

A-E 4.02 Application for registration. An applicant who files an application but who does not comply with a request for information related to the application within one year from the date of the request shall file a new application and fee.

Note: Applications are available upon request to the Division of Professional Credential Processing located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. Register, May, 1990, No. 413, eff. 6-1-90; am. Register, January, 1999, No. 517, eff. 2-1-99.

A-E 4.03 Engineering experience. To qualify as satisfactory experience in engineering work for the purpose of meeting requirements of s. 443.04, Stats., an applicant's experience shall include the application of engineering principles and data and shall demonstrate an applicant's progressive development of competence to do engineering work. The experience shall be acquired in the areas of engineering practice listed in subs. (1) to (7) or in other areas of engineering practice or academic course work which in the opinion of the board provides the applicant with a knowledge of engineering principles and data at least equivalent to that which would be acquired by experience in the areas of practice listed. Experience in all areas listed is not required.

(1) RESEARCH AND DEVELOPMENT. (a) Problem identification, including consideration of alternative approaches to problem solving.

(b) Planning, including selecting a theoretical or experimental approach.

(c) Execution of plan, including completing design calculations.

(d) Interpreting and reporting results, including all of the following:

1. Evaluating project feasibility studies.
2. Analyzing research and development data.
3. Producing interpretive reports.
4. Formulating conclusions and recommendations.
5. Producing final reports.

(2) DESIGN. (a) Problem identification, including all of the following:

1. Identifying design objectives.
2. Identifying possible design concepts or methods.
3. Selecting methods to be employed in consideration of aesthetics, cost and reliability.
4. Defining performance, specifications, and functional requirements such as materials, energy balances, and environmental considerations.
5. Formulating conceptual design specifications.

6. Defining physical properties of all key materials.

(b) Planning, including defining safety, health and environmental constraints.

(c) Execution of plan, including all of the following:

1. Developing design concepts.
2. Conducting feasibility studies.
3. Evaluating design and design methods.
4. Solving design problems.
5. Preparing designs, layouts and models.
6. Selecting materials and components.
7. Conducting value analysis of design.
8. Producing final designs.
9. Preparing supporting technical information.
10. Preparing detailed working drawings.
11. Preparing specifications and data sheets.
12. Interacting with engineers from other areas of work such as research and development and construction.

(d) Interpreting and reporting results, including all of the following:

1. Evaluating design for conformity to specifications.
2. Evaluating design solutions for efficiency, economic and technical feasibility and economic alternatives.
3. Evaluating design impact on public health, safety and welfare.
4. Evaluating design solution for adherence to laws and codes.
5. Evaluating product liability risk.
6. Reviewing designs with clients or management.
7. Preparing final reports.

(e) Implementation of results, including interacting with engineers from other disciplines of engineering.

(3) CONSTRUCTION. (a) Problem identification, including checking working drawings and specifications.

(b) Execution of plan, including all of the following:

1. Consulting with designers.
2. Identifying and requesting design changes.

(4) MANUFACTURING, PRODUCTION AND OPERATIONS. (a) Planning, including all of the following:

1. Proposing design or methods improvement.
2. Planning operational processes and strategies.

(b) Execution of plan, including all of the following:

1. Preparing equipment, system and process specifications.
2. Determining feasibility of new or improved products, systems and processes.

(c) Interpreting and reporting results, including preparing final reports.

(5) MAINTENANCE. (a) Problem identification, including determining causes of failures in equipment, structures or schedules.

(b) Interpreting and reporting results, including reporting the causes of failures in equipment, structures or schedules.

(6) ADMINISTRATION. Administration and management, including execution of plan by communicating with others.

(7) OTHER ENGINEERING TASKS. (a) Conducting systems analysis or operations research.

(b) Serving as a consultant or specialist to individual or business clients.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (1) (a) to (d) 4, (2) (a) (intro.) to 5., (b) to (c) 11., (d) (intro.) to 6., (e), (3) to (7) (a), Register, January, 1999, No. 517, eff. 2-1-99; CR 12-053: am. (2) (a) 4. Register November 2013 No. 695, eff. 12-1-13.

A-E 4.04 Experience credit limitation. Not more than one year of satisfactory experience credit may be granted for any calendar year.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87.

A-E 4.05 Requirements for registration as a professional engineer. (1) FOUR YEAR COURSE OF STUDY. A four year course of study requires all of the following:

(a) A bachelor of science degree (B.S.) in engineering from a school or college of engineering accredited by the engineering accreditation commission of the accreditation board for engineering and technology (EAC/ABET) in engineering of not less than 4 years, or a diploma of graduation in engineering of not less than 4 years deemed by the professional engineer section to be equivalent to a B. S. degree in engineering from an EAC/ABET accredited school or college of engineering.

(b) A specific record of 4 or more years of experience within the 10 years preceding the application in engineering work of a character satisfactory to the professional engineer section indicating that the applicant is competent to be placed in responsible charge of engineering work. Experience gained in obtaining a master's degree in engineering and experience gained in obtaining a Ph.D. in engineering or in an engineering related program shall each be deemed equivalent to one year of qualifying experience.

(c) Successful completion of the fundamentals of engineering examination and the principles and practice of engineering examination.

(d) If an engineering degree is from an educational institution located outside the United States or its territories, the applicant shall provide an official evaluation by a transcript evaluation service acceptable to the professional engineer section which compares the degree to an engineering education standard acceptable to the professional engineer section. The professional engineer section may approve the degree if it finds equivalence.

(2) TWO YEAR COURSE OF STUDY. A 2 year course of study requires all of the following:

(a) An associate degree in engineering related course of study from a technical school or college accredited by the engineering technology accreditation commission of the accreditation board for engineering and technology (ETAC/ABET) in an engineering related course of study of not less than 2 years. This shall be deemed equivalent to a degree from a technical school or college approved by the professional engineer section.

(b) A specific record of 6 or more years of experience within the 10 years preceding the application in engineering work of a character satisfactory to the professional engineer section indicating that the applicant is competent to be placed in responsible charge of engineering work.

(c) Successful completion of the fundamentals of engineering examination and the principles and practice of engineering examination.

(3) EXPERIENCE. To qualify as satisfactory experience in professional engineering for purposes of ss. 443.04 (2m) (a) and (b), Stats., an applicant's experience must be obtained subsequent to completion of the educational requirements set forth in s. 443.04 (1m), Stats. This requirement may be waived, in the sole discre-

tion of the professional engineer section, for reasons it considers sufficient.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (1), cr. (3) and (4), Register, January, 1993, No. 445, eff. 2-1-93; r. and recr. Register, March, 1996, No. 483, eff. 4-1-96; am. (1) (b), (2) (a), (3) (a) and (4) (b), Register, November, 2000, No. 539, eff. 12-1-00; CR 04-119: am. (1) (c), (2) (b), (3) (c) and (4) (c) Register December 2005 No. 600, eff. 1-1-06; CR 12-053: r. and recr. Register November 2013 No. 695, eff. 12-1-13.

A-E 4.06 Engineer-in-training. An applicant for certification as an engineer-in-training shall take and pass a fundamentals examination.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. Register, January, 1999, No. 517, eff. 2-1-99; CR 12-053; renum. from A-E 4.07 Register November 2013 No. 695, eff. 12-1-13.

A-E 4.07 Examinations. (1) SCOPE OF WRITTEN EXAMINATIONS. (a) The fundamentals examination requires an understanding of the physical and mathematical sciences involved in the fundamentals of engineering.

(b) The principles and practice examination requires the ability to apply engineering principles and judgment to problems in general engineering fields such as chemical, civil, electrical and mechanical fields.

(4) EXAMINATION AND REFUND FEES. The fee for an engineer-in-training or professional engineer examination and requirements for refund of fees are specified in s. 440.05, Stats., and ch. SPS 4.

(6) GRADING OF WRITTEN EXAMINATIONS. The passing scores set by the board represent the minimum competency required to protect public health and safety. Experience ratings may not be weighed as a part of the examinations.

(7) CHEATING. Any applicant for registration who receives aid or cheats in any other manner in connection with the examination shall be barred from completing the examination or shall not be given a passing grade, or both.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (1) (b), Register, May, 1990, No. 413, eff. 6-1-90; r. and recr. (2), Register, June, 1993, No. 450, eff. 10-1-93; am. (1) (b) and (c), Register, December, 1993, No. 456, eff. 1-1-94; am. (3), Register, August, 1995, No. 476, eff. 9-1-95; am. (7) (b), Register, March, 1996, No. 483, eff. 4-1-96; am. (7) (a), Register, October, 1996, No. 490, eff. 11-1-96; am. (1) (a), (3) and (6), cr. (8), Register, January, 1999, No. 517, eff. 2-1-99; CR 04-119: r. (1) (c) Register December 2005 No. 600, eff. 1-1-06; correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; CR 12-053: renum. A-E 4.07 from A-E 4.08, am. (2) (a) 1., 2., r. (2) (a) 3., am. (2) (b), r. (7), renum. (8) to (7), Register November 2013 No. 695, eff. 12-1-13; CR 15-040: r. (2), (3), (5) Register May 2016 No. 725, eff. 6-1-16.

A-E 4.08 Application contents. (1) An application for initial registration shall include all of the following:

(a) Transcripts or apprenticeship records verifying the applicant's education and training.

(b) References from at least 5 individuals having personal knowledge of the applicant's engineering work, 3 or more of whom are registered professional engineers, **one of whom is registered in Wisconsin** and one of whom has served as supervisor in responsible charge of the applicant's engineering work.

(c) A chronological history of the applicant's employment.

(d) Any additional data, exhibits or references showing the extent and quality of the applicant's experience that may be required by the professional engineer section.

(2) An application for registration by **comity** from another state shall include all of the following:

(a) Verification of registration submitted directly from all states, territories or provinces of Canada where the applicant is or has been registered, including a statement regarding any disciplinary action taken.

(am) References from at least 5 individuals having personal knowledge of the applicant's engineering work 3 or more of the references shall be registered professional engineers and one of whom has served as supervisor in responsible charge of the applicant's engineering work.

(c) Verification of meeting the continuing education requirements set forth in s. [A-E 13.09](#).

(d) Any additional data, exhibits or references showing the extent and quality of the applicant's experience that may be required by the section.

History: Cr. [Register January 1993 No. 445](#), eff. 2-1-93; am. [Register January 1999, No. 517](#), eff. 2-1-99; [CR 03-087](#): renum. (intro.) and (1) to (4) to be (1) (intro.), (a) to (d) and am. (1) (intro.) and (b), cr. (2) [Register May 2005 No. 593](#), eff. 6-1-05; [CR 12-053](#): renum. A-E 4.08 from A-E 4.09, am. (1) (b), cr. (2) (am), renum. (2) (b) to (d), cr. (2) (c) [Register November 2013 No. 695](#), eff. 12-1-13.