

Clearinghouse Rule 18-028

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

IN THE MATTER OF RULE-MAKING	:	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
LAND SURVEYORS	:	SURVEYORS ADOPTING
	:	RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to amend A-E 1.02 (1) and 1.03 (2) (b), relating to authority.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 15.405 (2), Stats.

Statutory authority:

ss. 15.08 (5) (b), 15.405 (2), 227.11 (2) (a), 440.035 (1m) (a), and ch. 443, Stats.

Explanation of agency authority:

Under s. 15.08 (5) (b), Stats., the Examining Board “shall promulgate rules for its own guidance ...”

The Examining Board is established under s. 15.405 (2), Stats., and “all matters of joint interest shall be considered by joint meetings of all sections of the examining board ...”

Section 227.11 (2) (a), Stats., authorizes the Examining Board to “promulgate rules interpreting the provisions of any statute enforced or administered by the agency.”

Section 440.035 (1m) (a), Stats., states that the Examining Board shall, “independently exercise its powers, duties and functions prescribed by law with regard to rule-making ...”

Chapter 443, Stats., Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors, further defines the Examining Board and establishes each section with its duties and authority.

Related statute or rule:

Chapters A-E 2 through A-E 13

Plain language analysis:

Section 1 inserts a comma to conform the definition to drafting standards.

Section 2 amends A-E 1.03 to clarify that the A-E Rules Committee is an optional step in the rule process. Currently, rule projects undergo three layers of review within the Board structure: the Section, the A-E Rules Committee, and the full A-E Board. Many recent rule projects have focused on one profession, and the respective Section has been able to determine what rule projects are needed and draft preliminary rules during their meetings. Thus, under this change, it is clarified that if the Rules Committee has limited business or no quorum, having no A-E Rules Committee review will not prevent rule projects from being considered by the full A-E Board.

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

None.

Comparison with rules in adjacent states:

Illinois:

Illinois has several boards that oversee these professions, including the Architecture Licensing Board, Board of Professional Engineers, Structural Engineering Board, Landscape Architect Registration Board, and the Land Surveyors Licensing Board. Additional boards work under the Illinois Department of Financial and Professional Regulation, but there is no specific board for designers. There are no standing Rule Committees as a part of these Boards.

Iowa:

Iowa has several boards that oversee these professions, including the Engineering & Land Surveying Examining Board, Architectural Examining Board, and the Landscape Architectural Examining Board. Additional boards work under the Iowa Professional

Licensing Bureau, but there is no specific board for designers. There are no standing Rule Committees as a part of these boards.

Michigan:

Michigan has several boards that oversee the various professions, including the Board of Architects, Board of Professional Engineers, and the Board of Professional Surveyors. These three boards require members from each of these professions, so each board has a representative from each of the above-listed professions. Additional boards work under the Department of Licensing and Regulatory Affairs, but there is no specific board for designers or landscape architects. There are no standing Rule Committees as a part of these boards.

Minnesota:

Minnesota has a similar joint board, the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design. The Board has a standing Rules Committee, however, it is not required by administrative rule or statute.

Summary of factual data and analytical methodologies:

The proposed rule amendments were developed in consultation with the A-E Rules Committee and 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 Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before 9:00 am on September 26, 2018 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. A-E 1.02 (1) is amended to read:

A-E 1.02 (1) “Board” or “joint board” means the examining board of architects, landscape architects, professional engineers, designers, and professional land surveyors.

SECTION 2. A-E 1.03 (2) (b) is amended to read:

A-E 1.03 (2) (b) *Authority and responsibility.* The rules committee ~~shall~~ may act for the joint board in rulemaking proceedings except for final approval as specified in sub. (1).

SECTION 3. 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)
