

Chapter A-E 3

PROCEDURE AND PRACTICE

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History: Chapter A-E 3 as it existed on December 31, 1973 was repealed and a new chapter A-E 3 was created effective January 1, 1974.

Note: A-E 3.01 to 3.28 were repealed, Register, July, 1979, No. 283, eff. 8-1-79.

A-E 3.50 Petition for rules. Petitions to adopt, repeal or amend any rule within the scope of the board's rule-making power shall be filed in the following manner:

(1) The petition shall be in writing and be captioned "BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS" and entitled "In the matter of the adoption of a rule relating to _____ (here insert subject matter dealt with in proposed rule)" or "In the matter of the amendment (or repeal) of rule number _____ of the rules and regulations relating to _____ (here insert proper title of the rules and regulations in which the rule to be repealed or amended appears)."

(2) If the petition is for the adoption of a new rule, the form of such proposed rule shall be set out in the petition, except that 2 or more forms may be set out in the alternative if the petitioner so desires.

(3) If the petition is for the repeal of an existing rule, such existing rule shall be set out verbatim in the petition. If the petition is for the amendment of an existing rule, the existing rule shall be set out at length with a horizontal line (or a line of hyphens) drawn through any words, figures and punctuation marks which the petitioner desires to have stricken and with new matter underscored or (if the petition is printed) in italics.

(4) A petition may be for the adoption, amendment or repeal of more than one rule, or for the repeal and re-creation of any rule, provided that each such proposal shall be separately stated.

(5) The petition shall be signed by one or more natural persons. The postoffice address of each signer shall be set out opposite his name and if he signs on behalf of a corporation or association that fact shall also be indicated opposite his name.

(6) The original and 5 copies of the petition shall be filed with the secretary of the examining board.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

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A-E 3.51 Supporting data. Whenever the adoption, repeal or amendment of any rule is sought by reason of the existence of a factual situation which the petitioner claims exists, the petition shall be accompanied by a sworn statement or affidavit of at least one of the petitioners stating the facts the petitioner claims exist justifying the board in taking the action prayed for and stating that evidence of such facts the petitioner has in his possession and desires to present to the board. Any petition requiring such supporting data may in the board's discretion be summarily denied if it does not conform to this rule.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.52 Duties of the secretary of the examining board. Whenever any petition for rules is filed the secretary shall verify or investigate the facts alleged in any supporting affidavit accompanying the petition. The secretary may also request an opinion from the board counsel or the attorney general as to the legality of the proposed rule or amendment. The secretary shall then submit the petition together with the results of his investigation to the joint board. The joint board may order further investigation if it deems advisable.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.53 Hearings. (1) No hearing shall be held on any petition unless ordered by the joint board. If ordered by the board such hearing shall be public and notice thereof shall be given to interested parties in such manner and within such time as the joint board may prescribe. Notice of hearing shall be given in writing to the person filing the petition and shall be served by first class mail sent to the address shown on the petition.

(2) Unless otherwise ordered by the joint board, hearings shall be conducted by the rules and by-laws committee. The person presiding shall keep a list of the persons appearing for and against the proposed change and shall submit to the joint board a summary of the testimony.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.54 Arguments. Written arguments for or against a proposal contained in a petition may be submitted to the secretary of the board with the petition or, if a hearing is held, within 10 days following the hearing or as the board may otherwise direct.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.55 Board action. The joint board shall deny the petition or adopt all or part of the proposals contained therein within 90 days from the date that the petition is filed. If the joint board adopts all or part of the proposals contained in the petition by a majority vote, then it shall proceed with rule-making in the manner prescribed in ss. 227.02 to 227.024, Stats.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.56 Reconsideration of denial. A petitioner may, within 30 days of board action denying a petition, file a motion and written arguments with the secretary requesting the board to reconsider its decision to deny the petition. The board may rule on the motion without providing a hearing to the petitioner. A ruling by the board under this section

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denying petitioner's motion shall be in the form prescribed for an order in section A-E 3.24.

History: Cr. Register, December, No. 216, eff. 1-1-74.

PETITION FOR DECLARATORY RULING

A-E 3.80 Who may petition. Any person in interest or his duly authorized agent or attorney may petition the board for a declaratory ruling with respect to the applicability to any persons, property or state of facts of any rule or statute enforced by the board. Two or more persons similarly situated may join in a single petition and additional parties may intervene by petition.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.81 Form of petition; verification. (1) Every such petition shall be captioned "Before the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors, _____ Section" and entitled "In the matter of the applicability of rule no. _____, of the rules and regulations relating to _____ (or, of section _____ of the Wisconsin Statutes) to _____ Petitioner".

(2) The petition shall contain a plain and concise statement of the ultimate facts showing the petitioner's interest (including any license held by petitioner) and the situation as to which a declaratory ruling, is desired, without argument or unnecessary repetition.

(3) The petition shall conclude with a prayer for the declaratory ruling to which the petitioner supposes himself to be entitled.

(4) Every such petition shall be signed by or on behalf of each petitioner, stating his postoffice address, and shall be verified by at least one of them.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.82 Filing. The petition shall be filed in triplicate (original and 2 copies) with the board secretary.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.83 Duties of board secretary. Upon the filing of a petition for declaratory ruling the board secretary may cause an investigation to be made of the facts alleged in the petition. The board secretary may also request an opinion from the board counsel or the attorney general as to legal questions raised by the petition. If the board secretary determines that any of the allegations of the petition may be untrue or should be qualified, or that material facts may not have been alleged, he shall prepare and serve on the petitioner (and any interveners) a notice of hearing and statement of issues, setting forth the questions upon which the petitioner will be required to produce evidence. The petitioner shall not be required to answer the notice of hearing and statement of issues. If the board secretary determines that there is no issue of fact he shall state in the notice of hearing that issues of law only will be considered. The board secretary shall present the petition and the notice of hearing and statement of issues to the interested section or joint board prior to the hearing on the matter.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

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A-E 3.84 Moot or hypothetical cases. The board will not consider moot or hypothetical cases, or cases in which the petitioner has no interest, financial or otherwise. Whenever a petitioner desires a declaratory ruling as to a prospective course of action, the petition shall allege and the proof must show that petitioner in good faith intends to pursue such course of action in the event of a favorable ruling by the board.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.85 Hearings; appearances. Hearings shall be conducted as nearly as possible as prescribed by sections A-E 3.22 to 3.26. The evidence resulting from investigation ordered by the board secretary shall be presented by the board secretary or board counsel. Members of the board and the board counsel may question any witnesses called by the petitioner.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

A-E 3.86 Order; amendment of rules; disciplinary action. (1) The board may for good cause refuse to make a declaratory ruling in any case providing it informs the petitioner of the cause for its refusal.

(2) If the board determines at any time during the proceedings that the matter is moot or hypothetical or that the petitioner has no interest in the matter, the board shall dismiss the matter, deny the petition and issue an order setting forth the grounds for the denial.

(3) The board shall in all cases involving a petition for a declaratory ruling except as provided in subsections (1) and (2) issue an order so framed as to dispose of all questions raised in the proceedings. It may state that certain acts or fact situations are or will be contrary to the applicable statute or rule while others are not or will not be so. If during the pendency of the proceedings the board has adopted an amendment of its applicable rules, such amendment shall be given due effect. The order shall state that the ruling is not applicable to any fact situation not contemplated by the board and specifically mentioned in the order.

(4) Whenever the petition or the proof shows that any petitioner or intervenor has wilfully violated any statute or rule or order of the board, constituting grounds for revocation or suspension of a license, the order may contain a finding to that effect and in addition to (or in lieu of) a declaratory ruling the board may order the license of any such party suspended or revoked.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.