

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Board of Registration for Professional Engineers and Surveyors

Regulation/Package Title: R.C. Chapter 4733 Five-Year Rule Review

Rule Number(s): Amended: 4733-9-01; 9-04; 13-01; 19-01; 25-01; 35-04; 39-06

New: 4733-9-05; 9-06; 9-07; 9-08 No Change: 4733-9-02; 17-01; 20-01; 21-01; 23-01; 29-01; 31-01; 33-01; 35-01; 35-02; 35-03; 35-05; 35-06; 35-07; 35-08; 35-09; 37-01; 37-02; 37-03; 37-04; 37-05; 37-06; 37-07; 38-01; 38-02; 38-03; 38-04; 38-05; 39-01; 39-02; 39-03; 39-04; 39-05, 39-07

Date: March 7, 2014

Rule Type:

☐ New

☐ Amended

☒ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

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Pursuant to Ohio Revised Code 4733.07 and Ohio Administrative Code 4733-1-01 the Board is conducting its 5-year rule review. The Board proposed amendments to the Board's rules as noted below. Most of the amendments below reflect the conversion of the national Fundamentals of Engineering (FE) and Fundamentals of Surveying (FS) examinations to computer-based testing effective January 2014. Previously, and in accordance with national standards, the Board offered the FE and FS in April and October each year. The exams were paper and pencil and are eight hours in duration. The exams were offered at three locations in Cleveland, Columbus and Cincinnati. With the conversion to computer-based testing, graduating seniors and other candidates are able to take the FE and FS exams at Pearson Vue testing centers located throughout Ohio and at their convenience. Other rules have been amended to reflect current practices and to make the language plain and understandable.

The following rules are being proposed for amendment:

4733-9-01 Updated name change of accreditation body to ABET. Clarifies degree evaluation process and exam format.

4733-9-04 Updates exam procedures to reflect change to national computer-based testing. The exam will no longer be offered in a paper and pencil format or be eight hours in duration.

4733-13-01 Removes the word Ohio from rule to be consistent with law. Eliminates two-hour time requirement for exam.

4733-19-01 Updates continuing professional development requirement based on move to biennial renewal in 2012.

4733-25-01 Wording change for consistency with law.

4733-35-04 Format change for clarification.

4733-39-06 Eliminates requirement for annual renewal for certificates of authorization to allow for biennial renewal.

The following new rules are being proposed:

4733-9-05 Rule related to compliance with exam policies and procedures.

4733-9-06 Rule related to compliance with exam policies and procedures.

4733-9-07 Rule related to compliance with exam policies and procedures.

4733-9-08 Rule related to compliance with exam policies and procedures.

The following rules are being proposed to continue without amendment, replacement or elimination:

4733-9-02; 17-01; 20-01; 21-01; 23-01; 29-01; 31-01; 33-01; 35-01; 35-02; 35-03; 35-05; 35-06; 35-07; 35-08; 35-09; 37-01; 37-02; 37-03; 37-04; 37-05; 37-06; 37-07; 38-01; 38-02; 38-03; 38-04; 38-05; 39-01; 39-02; 39-03; 39-04; 39-05; 39-07.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

The proposed rule package is authorized by section 4733.07 of the Ohio Revised Code.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

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The rule does not implement a federal requirement.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

R.C. Chapter 4733 establishes the State Board of Registration for Professional Engineers and Surveyors to regulate the professions of engineering and surveying in Ohio. The mission of the Board is to safeguard the health, safety, property and welfare of the citizens of Ohio by providing effective licensure and regulation of professional engineers, professional surveyors and engineering and surveying firms. This is accomplished by ensuring that only qualified individuals and firms are licensed to practice engineering and surveying in Ohio and ensuring that Ohio's laws and rules governing the practice of engineering and surveying are followed. The Board is able to ensure that only qualified individuals are licensed to practice engineering and surveying by requiring minimum educational standards, passing two national licensure exams, completing supervised engineering and surveying experience prior to licensure that demonstrates that the individual is qualified to be in responsible charge of engineering and surveying projects and also requiring continuing education requirements after licensure. The proposed rules will permit the Board to perform its duties and transact business in order to fulfill its mission to the citizens of Ohio. The proposed rules are necessary to facilitate compliance with Chapter 4733 of the Ohio Revised Code, including:

- Requirements for registration as a professional engineer and professional surveyor.
- Exam administration procedures.
- Applications, forms and fees related to registration by individuals and firms to practice engineering and surveying in Ohio.
- The Code of Ethics for professional engineers and professional surveyors.
- Providing minimum standards for boundary and mortgage location surveys.

Specifically, most of the proposed changes allow the Board to administer the first stage licensure examinations in accordance with national exam policies and procedures.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of the regulations will be measured by having rules written in plain language, monitoring licensee compliance with the rules, and monitoring questions from licensees regarding the rules.

The language changes to the Fundamentals exams are the result of a nationwide initiative to convert the Fundamentals exams to computer-based testing. The Board will continue to work with the National Council of Examiners for Engineering and Surveying (NCEES), the national organization that develops and administers the licensing exams, to monitor the effectiveness of the exams and the impact the conversion to computer-based testing has on the profession. Board staff will continue to participate in NCEES committees and meetings monitoring the conversion to computer-based testing and meet with Ohio's universities and colleges that offer engineering and

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surveying programs. The Board will also incorporate the changes in the examination procedures in its performance measuring process, which tracks the Board's efficiency at processing applications and other requests for information.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The Board has been planning for the conversion of the national Fundamentals exams to computer-based testing for more than two years. In late 2012 and early 2013 the Board distributed the proposed changes to the rules, along with the no change rules, to the professional associations and technical societies for review and comment. Executive Director Greenhalge met with the staff and members of the following associations and technical societies to discuss the proposed changes and elicit feedback and comments: Professional Land Surveyors of Ohio (PLSO), Ohio Society of Professional Engineers (OSPE) and American Council of Engineering Companies Ohio (ACEC). Members of the engineering and surveying trade associations also regularly attend Board meetings and were present during discussions of the proposed changes.

On September 25, 2013 the Board uploaded an announcement, along with a copy of the proposed and amended rules and draft of the Business Impact Analysis, to the Board's website for public comment. A copy of these documents was also sent to PLSO, OSPE and ACEC for distribution to their membership. The Board has maintained a notice of the proposed changes to the rules for the past year while House Bill 202 was moving through the House and Senate.

There has been no opposition or negative feedback concerning the Board's proposed changes to the rules. All comments have been supportive and positive.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Minimal feedback was received since the only substantive changes to the rules involve the conversion to computer-based testing and exam procedures, which is a national initiative. Comments received were supportive of the changes to rule language affecting exam format since the switch to computer-based testing will make taking the Fundamentals exams more accessible to students and will decrease the costs associated with taking time off work, travel to one of the three testing sites in Columbus, Cleveland and Cincinnati, and lodging costs. The exams are now available at Pearson Vue testing centers throughout Ohio. Ultimately these rules will provide more flexibility and reduced costs related to taking the licensure exams.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

No scientific data was used to develop or review these rules. Input was solicited from registered professional engineers and surveyors, the professional and technical associations related to the professions of engineering and surveying and the business community.

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10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

As the regulations are essential to protecting the health, safety and welfare of the citizens of Ohio by ensuring that qualified individuals and firms are admitted to practice engineering and surveying in the state of Ohio, the Board did not consider any regulatory alternatives.

11. Did the Agency specifically consider a performance-based regulation? Please explain. Performance-based regulations define the required outcome, *but don't dictate the process* the regulated stakeholders must use to achieve compliance.

The Board did not consider performance-based regulation for these rules. The Board determined that these rules did not require performance-based regulations since the Board is responsible for establishing qualifications to practice engineering and surveying, and these qualifications are based on a national model law.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Board conducted a thorough review of its laws and rules, as well as the national model laws and rules for engineering and surveying, to make sure there was not duplication or confusion. No other state regulations govern the professions of engineering and surveying. The Board's Executive Director and staff reviewed the Ohio Administrative Code to ensure that these rules do not duplicate an existing Ohio regulation.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Board will post the rules on its website and Facebook account. The Board will also distribute the information through newsletters and press releases. Since most of these amended rules reflect a law change, the Board has met with interested parties, such as professional and technical associations, colleges and universities and the business community to announce the rules. The Board also has licensing staff available to answer any questions that may arise due to the proposed rules.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The proposed rule changes will affect the following:

- Engineering and surveying firms currently licensed to practice in Ohio, as well as any firm that will apply for registration in Ohio.
- Registered professional engineers and surveyors, and those applying for professional registration in Ohio.
- Applicants to take the Fundamentals and Principles and Practice examinations.

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b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Although the Board is not proposing any increase in application fees or renewal fees for the business community the rules require an application fee and renewal fee for a Certificate of Authorization (COA). Firms and individuals applying for licensure will be required to complete an application in accordance with the provisions of Ohio Revised Code Chapter 4733. The rules might include disciplinary action for individuals and firms that do not comply with Ohio law.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The Board's COA application and renewal form are easy to complete and have been streamlined to require only essential information to ensure that engineering and surveying services are being performed by qualified individuals and firms and that the health, safety and welfare of the citizens of Ohio is protected. At six pages, the application is not difficult to complete. The same is true for the professional engineer and professional surveyor applications. Both applications take less than thirty minutes (30) to complete.

In terms of dollars, each new firm is required by R.C. 4733.12 to pay a \$50.00 application fee. The annual COA renewal will remain at \$25.00 per year; however, with the signing of House Bill 202 on March 4, 2014 by Governor Kasich the renewal fee will be renewed every two years. This switch to biennial renewal was implemented in response to requests from the business community to eliminate the annual renewal and move to a two-year renewal in order to eliminate the excess paperwork and applications for engineering and surveying firms. It is important to note that Ohio has one of, if not the lowest, application and renewal fees for engineering and surveying firms in the United States. These fees have not increased in over twenty years. In comparison the Board reviewed other fees charged by Ohio Boards that license and regulate firms and found that their application fees ranged from \$150.00 to \$400.00 and their renewals fees were between \$100.00 and \$150.00 annually.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Ohio Revised Code 4733.16 requires that all individuals and firms offering to provide engineering and/or surveying services must complete an application and meet certain registration requirements in order to legally provide those services in Ohio. This law also requires that each firm annually renew its COA provide the names, addresses of all owners and persons designated as responsible for engineering and/or surveying activities and decisions for the firm. The application fee and renewal fee is set in R.C. 4733.12. The purpose for these rules and requirements are to ensure that the health, safety and welfare of the citizens of Ohio is protected by ensuring that only licensed professional engineers and surveyors who meet the qualifications for registration are providing these services to the public. Our licensees are the professionals that design Ohio's roads, bridges and highways, design our homes, skyscrapers, schools, churches and commercial buildings, establish our property boundaries and GIS data, inspect our waterways and ensures the safety of our drinking water. It is imperative that the State of Ohio ensure that only qualified and competent individuals and firms provide these services to the public.

In order to help new firms get up and running without a long application approval process, in July 2012 the Board implemented a policy to streamline the COA application process and grant temporary COAs to firms that met Ohio

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law. The Board is able to process and issue a temporary COA to a firm usually within two business days. The Board also implemented an expedited application process for individuals. This eliminates the wait for formal approval by the Board at a Board meeting. The Board also utilizes a performance tracking system to monitor how long it takes the Board staff to process applications and respond to requests for information.

The Board has determined that there will be no adverse impact to regulated individuals or the business community as these changes do not impose additional requirements for licensure or a change in policy related to eligibility for licensure.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The proposed changes and updates to the rules do not provide any exemptions or alternative means of compliance for small business. The law applies to all regulated individuals and firms who wish to practice engineering and surveying in the state of Ohio.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

No fines or penalties are proposed in these changes. The proposed changes and updates to the rules do not affect compliance with the registration act or change the requirements for licensure; however, the Board's focus when it comes to violations is education and compliance first. The Board is very proactive to make regulated individuals and firms aware of the laws and rules governing the practice of engineering and surveying. The Board also does not have an extensive or onerous application process, paperwork is limited. The Board has worked very hard at streamlining its application process and can turn around and approve an application from an individual or business that meets the requirements for registration in Ohio law usually within two business days. The Board does not assess fines or penalties for "paperwork violations."

18. What resources are available to assist small businesses with compliance of the regulation?

The Board maintains a website and Facebook presence as well as incorporates a proactive enforcement program to inform regulated individuals and firms and the public of the laws and rules governing the practice of engineering and surveying. Board staff conducts presentations throughout Ohio to interested parties to provide updates on current regulations. Board staff is also available by telephone and email to answer questions.