

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: 4733-1-01; 3-04; 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:** 4733-1-02; 1-03; 1-04; 3-01; 3-02; 3-03; 3-05;
5-02; 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; 40-01; 40-02; 40-03; 40-04; 40-05

Date: January 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 Rescinded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 the 5-year rule review. The Board will propose 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. Currently, and in accordance with national standards, the Board offers the FE and FS in April and October each year. The exams are paper and pencil and are eight hours in duration. The exams are offered at three locations in Cleveland, Columbus and Cincinnati. With the conversion to computer-based testing, graduating seniors and other candidates will be 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, to address grammatical and punctuation errors, and to make the language plain and understandable.

The following rules are being proposed for amendment:

4733-1-01 Eliminates the word Ohio for consistency.

4733-3-04 Eliminates annual report of transactions to reflect current practice and real-time reporting availability with OAKS financial system.

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:

4733-1-02; 1-03; 1-04; 3-01; 3-02; 3-03; 3-05; 5-02; 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; 40-01; 40-02; 40-03; 40-04; 40-05.

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

R.C. 4733.07. The state board of registration for professional engineers and surveyors shall adopt all necessary rules and bylaws, in accordance with Chapter 119. of the Revised Code, and not inconsistent with this chapter, and the constitutions and laws of this state or of the United States, to govern its times and places of meetings for organization and reorganization, for the holding of examinations, and for governing all other matters requisite to

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the exercise of its powers, the performance of its duties, and the transaction of its business. The board shall adopt and have an official seal. The board may include among the rules adopted governing the standards of practice of engineering, requirements regarding financial responsibility and professional liability insurance.

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.

Not applicable.

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 amendments will permit the Board to perform its duties and transact business in order to fulfill its mission to the citizens of Ohio. 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?

Most of the rules under review do not contain new language or are not the result of a new initiative. 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 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. The Board will also incorporate the change in the examination procedures in its performance measuring process, which tracks the Board's efficiency at process applications and other requests for information.

Development of the Regulation

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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 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.

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 will now be 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?

None– not relevant to this process.

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?

The conversion to computer-based testing is a national initiative. The Board and its staff have been working with NCEES and the other 59 states and U.S. territories to develop policies and procedures to make the conversion from paper and pencil exams to computer as seamless as possible for the exam candidates. The Board's proposed rules are based on more than two years of discussions and meetings with NCEES staff and other member boards. When proposing laws and rules affecting the licensure process, the Board strives to follow the national model law for

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engineering and surveying so as not to burden Ohio's examinees and licensees with unnecessary regulations and requirements that may impede licensure in other jurisdictions. This was the approach taken while developing these rules. The resulting rules were based on the national model.

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.

These rules are administrative procedures and do not change the requirements for licensure or compliance with Ohio's laws governing the practice of engineering or surveying.

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 did make grammatical changes and changes to punctuation to mirror the Revised Code.

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 incorporate the language into Board policies and procedures. The Board does not believe that the changes will cause confusion or an adverse impact on the regulated community.

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 2,600+ engineering and surveying firms currently licensed to practice in Ohio, as well as any firm that will apply for registration in Ohio. The proposed changes to the rules will not add or increase any fines or fees to the business community. The application fee for a business license, known as a Certificate of Authorization, will remain at \$50.00. The annual renewal fee will remain at \$25.00. 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. The Board has worked closely with the business community and the professional association representing Ohio's engineering and surveying firms, to assess the impact of the proposed rule changes. There has been no opposition to the proposed rule changes from the business community or the professions of engineering and surveying in general.

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

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. These proposed rule changes also do not require additional fines or fees. These rule changes are primarily

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related to exam policies and procedures that went into effect with the passage of House Bill 202 that went to Governor Kasich for his signature on February 26, 2014.

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 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.

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

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 affect compliance with the registration act or change the requirements for licensure.

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 within 24-48 hours. The Board does not assess “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.

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