



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

Business Impact Analysis

Agency, Board, or Commission Name: State Board of Registration for Professional Engineers & Surveyors

Rule Contact Name and Contact Information: John Greenhalge john.greenhalge@pes.ohio.gov
614-466-8948

Regulation/Package Title (a general description of the rules' substantive content):

Five-year rule review – no change filing due to typo error in original filing in July 2022.

Rule Number(s): 4733-5-02, 4733-9-01, 4733-9-04, 4733-13-01, 4733-25-01, 4733-29-01, 4733-33-01, 4733-37-01, 4733-37-03, 4733-37-04, 4733-37-05, 4733-39-03, 4733-39-04, 4733-39-05

Date of Submission for CSI Review: May 6, 2024

Public Comment Period End Date: May 24, 2024

Rule Type/Number of Rules:

New/___ rules

No Change/ 14 rules (FYR? Y)

Amended/___ rules (FYR? ___)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. Requires specific expenditures or the report of information as a condition of compliance.**
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please briefly describe the draft regulation in plain language.**

These rules are being re-filed as no change rules due to a typo in the five-year review date. These rules were reviewed in 2021 and 2022 and a public hearing was held in May 2022. The rules were filed with JCARR; however, the five-year review date contained a typo, and the next review was entered as July 27, 2022, when it should have been July 22, 2027.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

ORC 4733.07 authorizes the board to write administrative rules to implement its statutory authority under 4733.

- 4. 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?**

No federal requirements are imposed through these rule changes.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

6. 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)?

There are no changes to these rules. These rules are in place to protect the public from unqualified and incompetent practice of engineering and surveying. Engineering and surveying work, if performed inadequately could have serious adverse impacts on public safety including significant financial loss and death.

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

None of the rules in this package could be significantly changed or eliminated without resulting in a loss of public protection. When these rules were thoroughly evaluated during the five-year rule review in 2021 and 2022 the Board was mindful of balancing the need for public protection and the need for employing a registration process that is fair and equitable that ensures that the Board is licensing individuals and firms in a manner that protects the public without adding unnecessary or burdensome requirements. The Board relies heavily on input from the profession, the public, and the 30+ colleges and universities that offer engineering and surveying programs. The Board also works closely with other Ohio Boards and Commissions and other state engineering and surveying boards through an association with the National Council of Examiners for Engineers and Surveying [NCEES] to ensure that the Board's laws and rules closely mirror the national model laws and rules to promote licensure mobility across the U.S.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

No.

Development of the Regulation

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

When the Board conducted the five-year rule review in 2022 the Board reached out to the public, the colleges and universities offering engineering and surveying programs, technical and professional associations representing the engineering and surveying profession, and the Board's approximately 35,000 licensed engineers, surveyors and firms to submit public comment. The Board also conducted over 70 presentations to the public, the profession and Ohio's universities and colleges in 2021 and 2022 requesting input. The Board has also posted the rules on the Board's website for comment.

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

The Board received input involving the need to update the minimum standards to align with national standards and the accepted standards of practice used by the profession more closely. These changes were incorporated in the 2022 rule review.

11. 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.

12. 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?

No alternative regulation was proposed. The Board is constantly working with NCEES and other state boards to assess the need for alternative regulation and ensuring that the Board's laws and rules align with the national model law. The Board has evaluated its laws and rules and compared them to the national model. Based on the ease in which individuals and firms can get licensed in Ohio and that there has been no negative feedback from the profession or the public, the board feels its rules fairly and effectively protect the public.

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

The Board is the sole agency that regulates the professions of engineering and surveying in Ohio.

14. 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.

There is no new plan for implementation since these are no change rules and this filing is due to a typographical error that can’t be changed without this new filing. The Board will continue to follow its established policies and procedures which were thoroughly evaluated when these rules were initially filed in 2022. The established polices and procedures used by the Board efficiently and effectively regulate the professions of engineering and surveying in Ohio. This was best demonstrated during the recent sunset review in the House where no recommendations were made.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

These rules will minimally impact Ohio’s engineering and surveying firms. The Board works closely with the American Council of Engineering Companies Ohio which represents Ohio’s engineering and surveying firms and other technical and professional associations representing the profession and they support the need for these rules and enforcement.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

4733-5-02 Notice of meeting. No adverse impact

4733-9-01 Experience and examinations. No adverse impact. Defines and describes the requirements for registration listed in R.C.4733.11.

4733-09-04 Examinations and minimum grades and intern certificates. No adverse impact. Defines and describes exam process listed in R.C. 4733.11.

4733-13-01 Comity and temporary registration. Adverse impact.

Requires the applicant to file an application for registration as a professional engineer or professional surveyor in Ohio.

Fee: \$75.00

Time for compliance: Minimal. Applications can be completed in 30 minutes or less.

4333-25-01 Reinstatement of an expired certificate of registration. Adverse impact.

Requires a licensee whose license has lapsed to file an application for reinstatement and requires a notarized for verifying experience. This form must be notarized by the supervisor that oversaw the work completed by the applicant to ensure the identity of the supervisor and accuracy of the work performed by the applicant. This is a stand-alone form that is not part of the eLicense online application system and is uploaded as a pdf to the Board's licensing database. Most of the Boards applications and forms are through eLicense and an electronic attestation is sufficient. This is one of two stand-alone forms that need to be verified by notarization.

Fee: Typical reinstatement fee is between \$120.00 - \$180.00

Time: Time to complete application < 1 hour. Approval time < 45 days to be approved by Board.

4733-29-01 Principles and practice examinations.

No adverse impact. Defines and describes the licensing exams listed in R.C.4733.11

4733-33-01 Examinations for surveyors. No adverse impact. Describes the exam requirements listed in R.C. 4733.11.

4733-37-01 Preamble.

Adverse impact. Requires surveyors to perform surveys in accordance with state minimum standards in order to protect public property.

Fee: None

Time: Varies depending on complexity of survey and size of property

4733-37-03 Monumentation. Adverse impact. Requires surveyors to perform surveys in accordance with state minimum standards in order to protect public property.

Fee: None

Time: Varies depending on complexity of survey and size of property

4733-37-04 Measurement specifications. Adverse impact. Requires surveyors to perform surveys in accordance with state minimum standards in order to protect public property.

Fee: None

Time: Varies depending on complexity of survey and size of property

4733-37-05 Plat of survey. Adverse impact. Requires surveyors to perform surveys in accordance with state minimum standards in order to protect public property.

Fee: None

Time: Varies depending on complexity of survey and size of property

4733-39-03 Applications and filing requirements. No adverse impact. Defines and describes the application process and filing requirements to file a certificate of authorization required pursuant to R.C. 4733.16.

4733-39-04 Annual renewal filing. Adverse impact. Requires firms offering engineering and/or surveying services in Ohio to file a renewal with a notarized form designating an engineer or surveyor as the RIC. This form must be notarized to ensure the identity and truthfulness of the individual completing the form. This is a stand-alone form that is not part of the eLicense online application system and is uploaded as a pdf to the Board's licensing database. Most of the Boards applications and forms are through eLicense and an electronic attestation is sufficient. This is one of two stand-alone forms that need to be verified by notarization.

Fee: \$75.00 biennial renewal fee

Time: < 3 business days for Board to renew COA license

4733-39-05 Certificate of authorization. Adverse impact. Describes the application process and filing requirements to file a certificate of authorization required pursuant to R.C. 4733.16. Requires licensed firm to disclose changes to the firm to the Board.

Fee: No fee for changes. \$75.00 fee for a new COA application.

Time: < 3 business days for Board to approve COA license

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify.

There are no changes to these rules that were filed in July 2022. The business community, and specifically engineering and surveying firms, support the Board's regulatory process.

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

The adverse impact of these rules is justified to protect the public. Engineering and surveying is very technical work that affects the public every day. The performance of engineering and surveying work by unlicensed and unqualified individuals and firms will affect the public financial and may lead to great public harm including injury and death. Ohio's laws, rules and

requirements for PE and PS licensure closely mirror the national model law and those adopted and enforced by other state engineering and surveying boards.

Regulatory Flexibility

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

Due to the nature of engineering and surveying work and the affect it has on public health and safety, no exemptions for small businesses were required.

19. 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?

These no-change rules do not involve fees or penalties that require a waiver.

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

The Board issues regular guidance through the Board's website, newsletters, social media and through presentations conducted throughout Ohio involving the licensing requirements for professional engineers and professional surveyors. The Board also works closely with the technical and professional associations representing small businesses and firms to assist them in meeting compliance and navigating the licensing process.