BOARDS AND COMMISSIONS

Board of Licensure for Professional Engineers and Land Surveyors

(Amendment)

201 KAR 18:196. Continuing professional development for professional engineers

RELATES TO: KRS 322.180(3), 322.190, 322.290(16)

STATUTORY AUTHORITY: KRS 322.290(16)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(16) requires the board to adopt a program of continuing education for professional engineers. This administrative regulation establishes requirements for the continuing professional development program mandated by KRS 322.290(16) for professional engineers.

Section 1. Definitions.

(1) "Calendar year" means a one (1) year period of time beginning on January 1 and ending on December 31.

(2) "Contact hour" means a minimum of fifty (50) minutes of instruction or presentation.

(3) ~~[(1)]~~ "Continuing professional development" or "CPD" means participation in activities, beyond the basic educational requirements, that:

(a) Provide specific content to improve the professional engineer's competence;

(b) Encourage acquisition of new skills and knowledge required to maintain competence;

(c) Strengthen the professional engineer's critical inquiry and balanced judgment;

(d) Raise the ethical standards within the professional community; and

(e) Meet the requirements established by ~~[the provisions of]~~this administrative regulation.

(4) ~~[(2)]~~ "Dual licensee" means a person licensed as both a professional engineer and a professional land surveyor.

(5) ~~[(3)]~~ "Licensee" means a person licensed as a professional engineer.

(6) ~~[(4)]~~ "Professional development hour" or "PDH" means one (1) nominal contact hour~~[not less than fifty (50) minutes]~~ of instruction or presentation that meets the requirements of this administrative regulation.

(7) "Provider" means a person, school, association, company, corporation, or group who has developed a CPD activity and participates directly in the presentation.

(8) ~~[(5)]~~ "Reporting period" means the two (2) calendar years preceding the June 30 deadline for renewal of license.

Section 2. Program Structure.

(1) Except as provided in Section 5~~[6]~~ of this administrative regulation, a licensee shall complete a minimum of thirty (30) PDH units each reporting period.

(2) If a licensee exceeds the requirement, a maximum of fifteen (15) PDH units may be carried forward to the next reporting period.

(3) PDH units earned by a dual licensee under this administrative regulation may also be used to meet the professional land surveyor requirements under 201 KAR 18:192 if the PDH units also meet the requirements of 201 KAR 18:192~~[that administrative regulation]~~.

(4) Failure to earn the required PDH units shall constitute unprofessional conduct.

Section 3. Criteria for Professional Development.

(1) Continuing professional development activities~~[education hours]~~ applicable to the renewal of the license shall be directly related to the professional growth and development of the professional engineer.

(2) PDH units may be earned upon~~[by]~~ successful completion of the following activities:

(a) College or university courses;
(b) Continuing education courses;
(c) Short courses, tutorials, webinars, and distance-education courses offered as face-to-face programs, live internet-based programs, archived prerecorded programs, or archived correspondence programs ~~[Correspondence, televised, videotaped, distance learning, and other short course or tutorials]~~;
(d) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, ~~[or]~~conferences, or educational institutions;
(e) Teaching or instructing activities specified in paragraphs (a) through (d) of this subsection;
(f) Authoring published papers, articles, books, or accepted licensing examination items related to the practice of engineering; or~~[and]~~
(g) Active participation in professional or technical societies as authorized in subsection (5)(g) of this section~~[Section 4(6)]~~.

(3) To ~~[In order to]~~ qualify for credit, activities described in subsections (1) and (2) of this section shall:
(a) Be relevant to the practice of engineering;
(b) Contain technical, ethical, or managerial subjects;
(c) Be an organized program of learning;
(d) Be conducted by individuals with education, training, or expertise; and
(e) Not include:
1. In-service ~~[in-service]~~ training;~~[,]~~
2. Orientation ~~[orientation]~~ to specific institutional policies and practices;~~[, or]~~
3. Time ~~[time]~~ used to sell or advertise a product; or~~[.]~~
4. Self-study.

(4) CPD activities shall earn credit only if substantially different from a course for which credit was claimed or granted in the current reporting period~~[previous two (2) calendar years]~~.

(5) PDH units shall be converted as follows:
(a) Credit for college or university courses shall be based upon course credit established by the college or university.
1. ~~[(a)]~~ One (1) university semester hour shall equal forty-five (45) PDH units.
2. ~~[(b)]~~ One (1) university quarter hour shall equal thirty (30) PDH units.
(b) One (1) continuing education unit shall equal ten (10) PDH units.
(c) One (1) nominal contact hour of professional development in coursework, seminars, or professional or technical presentations made at meetings, conventions, or conferences shall equal one (1) PDH unit. The total number of hours allowed for an activity cannot exceed the actual number of clock hours.
(d) Credit for correspondence, televised, videotaped, distance learning, and other short courses or tutorials shall be the equivalent PDH units recommended by the program author subject to board review.
(e) ~~[(e)]~~ For teaching an activity described~~[established]~~ in paragraphs (a) through (d) of Section 3(2), multiply the number of PDH units earned by participants for that activity by two (2). Teaching credit shall only be valid for the first time the activity is taught.
(f) ~~[(d)]~~ Each published paper, article, or book shall equal ten (10) PDH units.
(g) ~~[(c)]~~ Active participation in professional or technical societies~~[society]~~ shall equal two (2) PDH units for each organization.
1. Credit for active participation in professional or technical societies shall require that the licensee serve as an officer or committee chair of the organization.
2. PDH units shall not be earned until the end of each year of service is completed.

[Section 4.] [Determination of Credit.]

[(1)] [Credit for college or university courses shall be based upon course credit established by the college or university.]

[(2)] [Credit for qualifying seminars and workshops shall be based upon one (1) PDH for each fifty (50) minutes of instruction or presentation.]

[(3)] [Attendance at qualifying programs presented at professional or technical society meetings shall earn PDH units for the actual time of each program.]

[(4)] [Credit for correspondence, televised, videotaped, distance learning, and other short courses or tutorials shall be the equivalent PDH units recommended by the program author subject to board review.]

[(5)] [Teaching credit shall be valid for teaching a course or seminar for the first time only.]

[(6)]

[(a)] [Credit for active participation in professional or technical societies shall require that the licensee serve as an officer or committee chair of the organization.]

[(b)] [PDH units shall not be earned until the end of each year of service is completed.]

Section 4. [Section 5.] Recordkeeping.

(1) The licensee shall be responsible for maintaining records used to support PDH units claimed.

(2) Records required include:

(a) A log showing the date of the activity, provider[sponsoring organization], location, activity title, description, presenter's name, and PDH units earned; and

(b) Attendance certification records in the form of completion certificates or other documents supporting evidence of attendance.

Section 5. [Section 6.] Exemptions and Extensions.

(1) A licensee shall be exempted from continuing professional development requirements for the calendar year in which the licensee is initially licensed by the board. If a licensee is initially licensed in the first calendar year of the reporting period, the number of PDH units required for that reporting period shall be fifteen (15) PDH units.

(2) A licensee who is on active duty in the Armed Forces of the United States shall be exempted from continuing professional development requirements for those years in which the licensee was on active duty.

(3) A licensee who was licensed prior to January 1, 1972, and has kept the license in good standing since becoming licensed shall be exempted from continuing professional development requirements.

(4) [(2)] An individual who has selected inactive or retired status shall be exempted[exempt] from continuing professional development[the] requirements[of this administrative regulation].

(5) [(3)] A licensee who is unable to satisfy the CPD requirement because of physical disability, illness, or other extenuating circumstance may[shall] be granted an extension[exempted] for the reporting period in which the disability, illness, or extenuating circumstance occurs.

(6) [(4)] The board may[shall] grant an extension of time to fulfill the CPD requirement for an extenuating circumstance.

(7) [(5)] An exemption or extension request shall be made in writing, with supporting documentation, to the board during the calendar year in which the exemption or extension is requested, and the exemption or extension shall only be valid for that calendar year.

Section 6. [Section 7.] Reinstatement. Before a license shall be reinstated by the board under 201 KAR 18:115, a former licensee shall earn the PDH units required for each

reporting period the license was revoked, suspended, [or]expired, or in inactive or retired status up to a maximum of sixty (60) PDH units.

Section 7. [Section 8.] Reporting.

[(1)] A [On the biennial renewal form, a] licensee shall certify whether or not the licensee has complied with[met] the requirements of this administrative regulation during the biennial renewal of license. The failure to truthfully report compliance with this administrative regulation shall constitute unprofessional conduct.

[(2)] [Biennial renewal forms received after September 1 shall be subject to the audit process established in Section 9 of this administrative regulation.]

Section 8. [Section 9.] Audits.

(1) Compliance with the CPD requirements shall be determined through an audit process. [a random selection process in which a computer program shall select five (5) percent of the licensees filing biennial renewal forms on or before September 1 of that year.]

(2) Four (4) percent of licensees who have completed their biennial renewals before September 1 of their renewal year shall be selected for audit through a random selection process.

(3) All licensees who complete their biennial renewals on or after September 1 of their renewal year shall be subjected to the audit process.

(4) [(2)] A licensee who is the subject of an investigation pursuant to KRS 322.190 shall be subjected to the audit process[requirements of this section].

(5) [(3)] A licensee selected for audit shall provide the board with documentation as described in Section 4[5] of this administrative regulation within thirty (30) days of the board's request.

(6) [(4)] If continuing professional development[the board disallows] credit is disallowed[due to the activity not meeting the requirements of Section 3(2) of this administrative regulation, or if the PDH units reported are less than thirty (30)], the licensee shall have sixty (60)[180] calendar days after notification to substantiate the original claim or earn other PDH units to meet the requirement.

(7) [(5)] Failure to comply with the CPD requirements shall constitute[be considered] a violation of KRS 322.180[(3)] subjecting the licensee to disciplinary action.

(8) [(6)] An audit resulting in a determination of noncompliance shall subject the licensee to an automatic audit for the next reporting period and each subsequent reporting period until an audit results in a determination of compliance.

KYLE L. ELLIOTT, Executive Director

APPROVED BY AGENCY: October 23, 2023

FILED WITH LRC: June 27, 2024 at 10:55 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 24, 2024, at 2:00 p.m., Eastern Standard Time, at the Kentucky Engineering Center, 160 Democrat Drive Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kyle L. Elliott, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive Frankfort, Kentucky 40601, phone (502) 573-2680, fax (502) 573-6687, email kyle.elliott@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Kyle L. Elliott

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This administrative regulation establishes the continuing education requirements for professional engineers.

(b) The necessity of this administrative regulation:
KRS 322.290(16) requires the board to adopt a program of continuing education for professional engineers.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
The regulation contains the details and requirements for mandated continuing education for professional engineers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
Professional engineers will understand continuing education requirements necessary for renewal of licensure.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
This amendment addresses four main areas of refinement: it decreases the number of professional engineers audited to 4% so as to streamline the audit process; helps streamline a professional engineer's ability to track continuing education in line with the requirements in other states; clarifies the reporting period for continuing education and defines calendar year; and makes changes to be more consistent with the continuing education program for professional land surveyors (201 KAR 18:192). Additionally, it makes some minor changes in wording to enhance clarity in other parts of the regulation.

(b) The necessity of the amendment to this administrative regulation:
This amendment is necessary to provide clarity to the requirements for continuing education compliance, to the audit process, and to assist professional engineers in tracking their continuing education requirement for Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes:
The amendment conforms to KRS 322.290(16) since said statute requires a continuing education program for professional engineers.

(d) How the amendment will assist in the effective administration of the statutes:
This amendment enhances the clarity of the requirements of the professional development program and provides the supporting regulatory language for the board to enforce the requirement of KRS 322.290(16).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
Only licensed professional engineers will be impacted by this regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the

change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Professional engineers will need to ensure they familiarize themselves with the clarifying language to the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There are no expected costs for those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Professional engineers will receive continuing education credit required for renewal.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

None.

(b) On a continuing basis:

None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Restricted agency funds from pre-existing fees provide the funding to enforce the regulation. The Board receives no general or federal funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding will be required because of this new regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied because the regulation is applicable to all professional engineers.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.
KRS 322.290(4); KRS 322.290(16)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:
The Kentucky State Board of Licensure for Professional Engineers and Land Surveyors.

(a) Estimate the following for the first year:

Expenditures:None.

Revenues:None.

Cost Savings:None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
There will be no expenditures or cost savings.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):
None, only the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors is impacted.

(a) Estimate the following for the first year:

Expenditures:None.

Revenues:None.

Cost Savings:None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
This regulation does not create expenditures, revenues, or cost savings.

(4) Identify additional regulated entities not listed in questions (2) or (3):
None.

(a) Estimate the following for the first year:

Expenditures:None.

Revenues:None.

Cost Savings:None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
This regulation does not create expenditures, revenues, or cost savings.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:
There is no fiscal impact from this regulation.

(b) Methodology and resources used to determine the fiscal impact:
There are no fees or costs associated with this regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4).

($500,000 or more, in aggregate)

This administrative regulation will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion:

There are no costs, expenditures, or revenues from this regulation.