



PE/PS Newsletter 10/2002

OHIO REVISED CODE CHAPTER 4733 UPDATE

Board streamlines registration act

Ohio Sub. House Bill 337, sponsored by Rep. Tom Lendrum, PE (R-Huron) and introduced on June 28, 2001, was requested by the Board in order to update and streamline our registration act.

The bill passed the House of Representatives unanimously on February 13, 2002, passed the Senate unanimously on April 17, 2002, was signed by Governor Taft on May 7, 2002 and became effective August 7, 2002.

This was a consensus bill due to more than two years of discussions between the Board and the statewide engineering and surveying associations (Ohio Society of Professional Engineers, American Council of Engineering Companies of Ohio, County Engineers Association of Ohio and Professional Land Surveyors of Ohio) as well as other stakeholders such as the Associated General Contractors, the Ohio Home Builders Association and the Ohio Bar Association.

H.B. 337 updates the Board's registration act — enacted in 1933 — which had only been substantially amended in the early 1970s (to require a college degree in order to become a Professional Engineer) and the mid-1980s (to require a college degree to become a Professional Surveyor). S.B. 77 was enacted during 2001 in order to delete burdensome ownership requirements for engineering and surveying companies. This latest legislation completes the updating process and protects the public without any growth in government or new burdensome regulations.

Following are the primary revisions to Ohio R.C. Chapter 4733.

- To provide that a Board member will continue the appointed term of office until a successor takes office. Un-

der previous law, a member's term could only continue for 60 days. That became problematic when there was a delay in the appointment of a successor.

- To revise the experience requirements to become a Professional Engineer or Professional Surveyor to allow up to two years of experience prior to college graduation. Previous law allowed credit for engineering experience only after college graduation, which unfairly penalized co-op and nontraditional students.

- To delete provisions allowing for registration as a Professional Engineer or Professional Surveyor by *eminence* without examinations, or as a Professional Engineer with a *related science* degree such as math, chemistry, physics, geology, or oceanography. This assures that registrants are properly educated and tested in order to protect the public and is parallel to the requirement for other professionals such as doctors and attorneys.

- To allow an applicant who fails an examination the opportunity to retake the examination twice a year rather than once a year.

- To require a signature, date and seal on all engineering or surveying work products and to provide for the use of electronic seals. Past law required only a seal, which could be easily copied. The additional requirement for a signature and date will help to assure that the work was prepared by a properly registered professional and the use of electronic seals, with appropriate safeguards, will expedite the timing of

approvals and bids and therefore the construction process.

- To standardize the annual renewal fee at \$16.00 for either a PE or PS, eliminating the \$21.00 annual renewal for *dual registrants* in previous law.

- To give the Board the authority to impose a fine of not more than \$1,000 for each offense for which a registrant is found to be guilty after a hearing to assure due process. The Board's enforcement efforts are always aimed at bringing registrants into compliance with the code of ethics and standards of practice, and the fining authority will provide another tool in our effort.

- To update and streamline the Board's investigation and disciplinary process. For example, the previous law required that an adjudication hearing be held even if no hearing was requested; wasting time and money for all parties involved.

- To prohibit a public agency from accepting or using engineering or surveying plans which were not prepared by a Professional Engineer or Professional Surveyor. Previous law only gave such authority to *officers of the law of this state*. An Attorney General's opinion issued in 1999 advised that a public agency, under the previous law, did not have the authority reject engineering plans not prepared by a Professional Engineer. Clearly, this needed to be corrected in order to protect the public safety. One can only imagine the possible harm of a complex bridge or high-rise building designed by an improperly trained and licensed individual.

Complete text of Sub. H.B. 337 online at
http://www.legislature.state.oh.us/bills.cfm?ID=124_HB_337

DON'T FORGET TO RENEW YOUR OHIO PE/PS ANNUAL REGISTRATION BY DECEMBER 31!

Why PE/PS professionals get licensed; even when not required by law

In virtually every state in the country — including Ohio — licensure as a Professional Engineer (PE) is not required for individuals who design “manufactured products.” This exemption, commonly known as the *industrial*

exemption, has been a part of Ohio law since the registration act for engineers and surveyors was first enacted in 1933. As a result, a large percentage of graduate engineers involved in the design of manufactured products don’t seek licen-

sure as a PE. Hopefully, this article will demonstrate the value of becoming licensed as a PE at an early age even if not required by law to do so.

We receive many telephone inquiries from “older” graduate engineers who have quit their job or lost their job due to “downsizing/outourcing.” These graduate engineers now want to become a licensed PE in order to open a consulting business or to get a job at a firm which requires PE licensure, so they call to ask how to become a PE. When I tell them that they will need to pass two exams, each of which is eight hours long, the first of which (FE) examines what was learned many years ago in college, they reply, after a long pause, with something like: “You must be kidding! I can’t remember all that stuff without hours/days/months/years of study!” After recovering from the shock, some decide to study (under stress), take the exams and get the PE license, while others must take lower paying jobs and sacrifice their life styles, an even more stressful alternative.

Now, “try this on for size” as a better alternative! Since the Fundamentals of Engineering (FE) exam tests what was learned in college and since an applicant is eligible to take the FE exam upon graduation with an engineering degree, it should be obvious that the best time to take the FE exam is soon after graduation. In order to then be eligible to take the PE exam to get a PE license, the applicant only needs four years of engineering experience after college graduation. Since virtually all humans tend to be better test takers when young, it then makes sense to take the PE exam as soon as one is qualified and thereby become a PE. If nothing else, most employers give raises to graduate engineers who become a PE.

Since the annual license renewal fee in Ohio is only \$16.00, maintaining a PE license is — without a doubt — the cheapest career insurance available.

In summary, unless a graduate engineer hates money and loves stress and worry, obtaining a PE license should be a “no-brainer.”

OHIO R.C. CHAPTER 4733 UPDATE

Agencies required to reject plans not prepared by professionals

Ohio Sub. H.B. 337 became effective August 7, 2002. Public agencies in Ohio now have the authority and responsibility to reject engineering plans not prepared by a licensed professional engineer or surveying plans not prepared by a licensed professional surveyor.

This protects the public by requiring that properly trained and licensed professionals prepare plans for public and private improvements which require the expertise of licensed professionals.

New language in R.C. 4733.23 states, in part, no “...public authority, as defined in division (A) of 153.65 of the Revised Code, shall accept or use any engineering or surveying plans prepared by any person not registered as a professional engineer or professional surveyor under this chapter.”

R.C. 153.65 defines a public authority as “the state, or a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special district of the state or a county, township, municipal corporation, school district or other political subdivision.”

OHIO R.C. CHAPTER 4733 UPDATE

Sealing requirements revised; electronic seals regulated

A revision to Ohio R.C. 4733.14 contained in Sub. H.B. 337 — which became effective on August 7, 2002 — revises the requirements for the sealing of documents by a Professional Engineer (PE) or Professional Surveyor (PS) and regulates the use of electronic seals.

Under current law, an Ohio PE or PS must seal, sign and date all of their engineering or surveying work products (that is: plans, plats, reports, etc.). The signature and date must be *handwritten*. The document may be sealed manually or with a computer-generated seal, but documents transmitted electronically must have the computer-generated seal removed before transmission and must contain, in place of the seal, the following language:

“This document was originally issued by [name of registrant] on [date]. This document is not considered a sealed document.”

The new requirements will allow for electronic transmission of engineering or surveying documents for review, comments, approvals, bids, and other purposes while providing appropriate safeguards to assure that the official work products are those actually issued by the PE or PS instead of documents which may have been altered by third parties.

2001-2002 Ohio Disciplinary Actions

SEPTEMBER 2001

Stephanie A. Sires, P.S.
Norton, Ohio

VIOLATION: Failure to meet the Minimum Standards for Mortgage Location Surveys in violation of ORC Section 4733.20 (A) (2) and OAC 4733-38-04 (B) (2) and 4733-38-05 (K) and (M).

BOARD ACTION: Reprimand.

Anthony A. Garcia, P.S.
Maumee, Ohio

VIOLATION: Practicing or offering to practice surveying before obtaining licensure in violation of ORC 4733.02 and 4733.22.

BOARD ACTION: Reprimand.

David E. Slagle, P.S.
Grove City, Ohio

VIOLATION: Failure to meet the Minimum Standards for Boundary Surveys in violation of ORC 4733.20 (A) (2) and OAC 4733-37-02 (A) and (B) and 4733-37-04 (B).

BOARD ACTION: Reprimand.

NOVEMBER 2001

AAA Engineering & Inspection Services, Inc.
Cincinnati, Ohio

VIOLATION: Corporation practicing or offering to practice engineering without a certificate of authorization in violation of ORC 4733.16.

BOARD ACTION: Settlement Agreement to cease and desist.

JANUARY 2002

Howard B. Stitt, P.E., P.S.
Cadiz, Ohio

VIOLATION: Practicing engineering and surveying while under suspension in violation of ORC 4733.02, 4733.20 (A) (6) and 4733.22 and OAC 4733-5-03 (A) (6).

BOARD ACTION: Settlement Agreement to voluntarily relinquish his certificate of registration to practice engineering and surveying in Ohio.

Jack D. Gillum, P.E.
Chesterfield, Missouri

VIOLATION: Professional registration revoked by another jurisdiction in violation of ORC 4733.20 (A) (5) and OAC 4733-35-08.

BOARD ACTION: Settlement Agreement

to voluntarily relinquish his certificate of registration to practice engineering in Ohio.

MARCH 2002

Frank E. Junkar, P.S.
Phoenix, Arizona

VIOLATION: Professional registration revoked by another jurisdiction in violation of ORC 4733.20 (A) (5), and OAC 4733-35-08.

BOARD ACTION: Certificate of registration to practice surveying in Ohio suspended until such time as he can clearly establish that the Arizona Board has reinstated him.

Robert E. Beebe
Cincinnati, Ohio

VIOLATION: Practicing or offering to practice engineering in violation of ORC 4733.02 and 4733.22.

BOARD ACTION: Settlement Agreement to cease and desist.

William L. Johanan, P.E.
Miamisburg, Ohio

VIOLATION: Sealing engineering documents and plans that were not prepared with his personal professional knowledge and under his direct supervisory control and responsibility in violation of OAC 4733-35-07 (A). Aiding and abetting the unlicensed practice of engineering [ORC 4733.20 (A) (3)].

BOARD ACTION: Reprimand and placed on probation for one year.

JULY 2002

John H. Erion, P.E.
Litchfield, Ohio

VIOLATION: Sealing engineering documents and plans that were not prepared with his personal professional knowledge and under his direct supervisory control and responsibility in violation of ORC 4733.20 (A) (2) and (5) and OAC 4733-5-03 (A) (2) and (5) and 4733-35-07 (A).

BOARD ACTION: Reprimand.

What is plan stamping?

We have received many inquiries regarding what constitutes *plan stamping* in Ohio. The following information is provided as a guide.

Ohio Administrative Code Section 4733-35-07 (A), Improper Conduct states: "The Engineer or Surveyor shall not sign and/or seal professional work for which he does not have personal professional knowledge and direct supervisory control and responsibility."

Plan stamping is demonstrated when a professional engineer or professional surveyor places his or her registration seal on any drawings, designs, plats, descriptions and/or specifications that he or she did not author or for which he or she did not have *personal professional knowledge* and *direct supervisory control and responsibility*.

Personal professional knowledge is best demonstrated when a professional engineer or professional surveyor has been personally retained by an owner, registered design professional or a design/build contractor and is personally aware of a project's scope, needs, parameters, limitations and special requirements. It is necessary or required that the professional engineer or professional surveyor contract with the owner for all professional services to be rendered and then subcontract out services such as drafting as needed.

Direct supervisory control and responsibility is best demonstrated when a professional engineer or professional surveyor has direct professional knowledge and is the actual author or has been in responsible charge of a design or project from its very inception to its completion. In some cases it may be necessary for unregistered individuals, such as technicians or drafters, to assist the professional engineer or professional surveyor; however, the professional engineer or professional surveyor must maintain responsible charge of the project and total control of all design decisions.

If you have questions, please contact the Board's Enforcement Officer, John Greenhalge.

Enforcement questions?

Contact **John Greenhalge**
Board Enforcement Officer

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VOICE +1 614 466 9106

GOLD CARD OPTION DOES NOT ALLOW PE/PS PRACTICE

Planning on retiring soon?

In response to many inquiries about “retired status,” be aware that Ohio’s registration law for Professional Engineers and Surveyors (Ohio R.C. Chapter 4733) does not allow any provisions for granting a lifetime license without the payment of renewal fees. The Board does, however, recognize that a registrant may choose not to renew a license, and by so doing be placed in an inactive status. If retired or inactive registrants desire to reactivate their licenses, they must request *reinstatement* of those licenses. Basically, the reinstatement process consists of the following: submittal of a notarized statement of activities during the inactive or retired period stating how the individual has maintained competency in their discipline, and completion of a *code of ethics* quiz.

If the registration has been delinquent or inactive for more than four years, the registrant will be required to pass the eight-hour Principles and Practice of Engineering (PE) examination or the Principles and Practice of Surveying (PS) examination as a condition of reinstatement. Upon approval by the Board, the registrant must also pay a renewal fee which equals three times the current annual renewal rate multiplied by the number of years for which the registration has been expired. Therefore, you should make sure you **want** to be placed in inactive status in order to avoid later “surprises.”

The Board will, upon written request, issue a *Gold Card* to retirees who no longer plan to keep their registration current. The Gold Card certifies the dates of continuous registration. It is important to note that the Gold Card does **not** allow practice of professional engineering or professional surveying.

VIOLATIONS SUBJECT TO DISCIPLINARY ACTION

Practice only within your area of professional expertise

The Board registers Professional Engineers and Professional Surveyors with out any designation of discipline: for example; civil, mechanical, chemical, welding, etc.; but each registrant is required by the “Code of Ethics for Engineers and Surveyors” (Ohio Administrative Code Section 4733-35) only to perform assignments when the registrant is qualified by training and experience in the specific technical field involved.

Ohio A.C. Section 4733-35-03 (B) states: “The Engineer or Surveyor shall undertake to perform assignments only when he and/or his consulting support are qualified by training and experience in the specific technical fields involved. In the event a question arises as to the competence of an Engineer or Surveyor to perform an engineering or surveying assignment in a specific technical field of engineering or surveying which cannot be otherwise resolved to the Board’s satisfaction, the Board, either upon request of the Engineer or Surveyor or by its own volition, may require him to submit to an appropriate inquiry by or on behalf of the Board.”

An Ohio registrant who performs engineering or surveying work outside of the registrant’s area of expertise is in violation of the code of ethics and subject to disciplinary action by the Board.

PLANNING AHEAD

Future NCEES exams

For those who plan ahead, following are future exam dates. Remember that Ohio requires your application request be postmarked 90 days before the exam. Graduating seniors at Ohio-accredited EAC/ABET colleges and universities may have a different deadline. Go to our website [ohiopeps.org] for more information.

- **2003 April** PE/PS on Friday, 04/11; FE/FS on Saturday, 04/12
- **2003 October** PE/PS on Friday, 10/25; FE/FS on Saturday, 10/26
- **2004 April** PE/PS on Friday, 04/19; FE/FS on Saturday, 04/20

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