

WSPE eNews

A monthly publication from the Wisconsin Society of Professional Engineers

March 2012 Edition

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1. WSPE Officer Position Openings

The WSPE Officer elections are right around the corner and the Executive Board would like to give you an advanced notice of the officer positions that will be available in the upcoming term. The duties of the open positions are outlined below, which include positions on the Executive Board and Practice Divisions.

An official ballot will be made available in the coming months. These openings should be considered for those who would like to fulfill some education credits for your PE renewal.

If you have questions or are interested in running for any of these positions, please email Chris Stamborski at chris.stamborski@rasmithnational.com or Ed Rodden II at ExecDir@wspe.org.

WSPE Executive Board Openings

(2012 – 2013 Term)

Only those members who are current members of National and their State Society shall be eligible to serve in the position of President, President-Elect and Vice President of either NSPE or their State Society. Duties and responsibilities for each Officer are defined as follows:

President-Elect

The President-Elect shall act as president in the president's absence, and shall undertake assignments at the request of the president, the Executive Committee, or the Board. The principle activity of the president-elect shall be an examination of the Society and the development of plans for the following year.

Vice President – Membership Portfolio

In the absence of, or in the case of the inability of the president and president-elect, it shall be the duty of one of the three vice presidents, in order of

precedence, to perform all the duties of president. Each vice president shall serve as chair of a portfolio and liaison to a group of chapters as determined by the president.

Vice President – Governmental Affairs Portfolio

In the absence of, or in the case of the inability of the president and president-elect, it shall be the duty of one of the three vice presidents, in order of precedence, to perform all the duties of president. Each vice president shall serve as chair of a portfolio and liaison to a group of chapters as determined by the president.

Treasurer

It shall be the duty of the treasurer to protect all funds and records of accounts of the Society, making an annual report of receipts and disbursements to the Society; give such bond, to secure the faithful discharge of duties as may be determined from time to time by the Board. The fee for this bond shall be paid by the Society. At the expiration of the term of office, all books, papers, and money belonging to the Society shall be turned over to the successor treasurer, who shall give the preceding treasurer a receipt therefore.

WSPE Practice Divisions Openings

(2012 – 2013 Term)

Practice divisions, comprised of members having common professional concerns and interest, shall operate under the Constitution and Bylaws of the Society. The American Council of Engineering Companies of Wisconsin (ACEC WI) shall be the designated practice division for professional engineers in private practice (PEPP). Operating rules of the practice divisions, and any changes thereto, must have the approval of the Board before becoming effective. The Board may dissolve a practice division after conducting a hearing on the need for such action.

Professional Engineers In Private Practice Professional Engineers In Government

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2. The Governmental Contractor Immunity Defense

By Attorney Robert A. Mich, Jr.

The Wisconsin legislature has bestowed significant protection to municipal governments and their agents under Wisconsin Statutes §893.80. This statute prohibits suits against governmental subdivisions for the intentional torts of their officers, officials, agents, or employees. Wis. Stat. §893.80(4). In addition, the government and its officers, officials, agents, and employees are immune from suit “for acts done in the exercise of legislative, quasi-legislative, judicial or quasi-judicial functions.” *Id.* This has generally been interpreted over the years as granting immunity to the government and their representatives for discretionary acts (although liability remains for “ministerial” acts, which are clear, express obligations that do not involve any exercise of discretion).

Municipal governments frequently contract with engineers and other construction professionals to provide specialized services. When an engineering firm provides those services, it may be acting as an arm of the government. Consequently, Wisconsin courts began considering whether the scope of immunity granted under Wis. Stats. §893.80(4) also covers the work of governmental contractors. The courts eventually concluded it did, provided certain criteria are met.

The governmental contractor immunity doctrine was first recognized in Estate of Lyons v. CNA Insurance Companies, 207 Wis. 2d 446, 558 N.W.2d 658 (Ct. App. 1996). In that case, the Court determined that engineering firm Strand Associates, Inc. was entitled to immunity from claims arising from a fatal car accident, where the Department of Transportation had directed Strand to implement the allegedly faulty aspects of the design of the bridge where the accident occurred. The Court of Appeals concluded that an independent professional contractor that follows official directives is an agent for purposes of Wis. Stat. §893.80(4) or is entitled to common law immunity when: (1) the governmental authority approved reasonably precise specifications; (2) the contractor's actions conformed to those specifications; and (3) the contractor warned the supervising governmental authority about the possible dangers associated with those specifications that were known to the contractor but not to the governmental officials. Id., at 457-458, 558 N.W.2d at 663. "This three-part test will ensure that state and municipal government, and the public at large, is able to make the best use of professional design assistance, but that professional contractors are not unfairly burdened by lawsuits when they follow governmental directives." Id. Subsequent Wisconsin court cases have continued to apply these three tests.

While this standard appears to provide significant protection to engineering firms, when it will apply is not always clear. For example, it is often difficult to determine whether the particular scope of work delegated to the contractor on a given project constituted "reasonably precise specifications." There is also a recurring question as to what constitutes a "possible danger" associated with the underlying specifications.

The lesson to be taken from this doctrine is that engineers should strive to implement the specifications provided by a governmental directive in performing their work. However, any concerns from an engineering standpoint should be immediately brought to the attention of the governmental body to take appropriate corrective action, if necessary. If the government chooses to ignore the engineer's warnings, the engineer should be insulated from liability for third-party claims. While assessment of an engineer's work will be focused on whether it met the appropriate standard of care, the extension of governmental immunity to independent contractors provides a secondary line of defense to potential malpractice claims.



Attorney Robert A. Mich, Jr. represents professional engineers, architects, contractors, materials suppliers and owners of construction projects, and is with the law firm of Kay & Andersen, LLC.

Please feel free to contact him at (608) 833-0077 or visit www.kayandandersen.com.

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3. Save the Date - Discovery Conference 2012

WSPE's Annual Discovery Conference will be in **Madison** at the **Crowne Plaza**, Friday, April 13 (full-day) and Saturday, April 14 (half-day). Spouses are welcomed.

Highlights of the Conference include:

Keynote Speaker: **NSPE President Chris Stone**

1. *General Sessions* on New Licensure Laws including **Continuing Education, Grandfather Clause, WSPE Update and President-Elect Goals & Objectives for 2012 –2013 term.**
2. *Breakout Sessions* on **Renewable Energy, NAVY Contracts**, and

industry project highlights

WSPE will be sending you a brochure with more details in the coming weeks.

If you'd like to be a sponsor or vendor at this event, please contact Ed Rodden II at ExecDir@wspe.org prior to **Wednesday, March 7**.

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4. MATHCOUNTS - Regional Competition Summary

On February 3, 2012 Governor Scott Walker signed a proclamation, which proclaimed the week of February 26 – March 3, 2012 as MATHCOUNTS WEEK, and March 3, 2012 as MATHCOUNTS DAY.

You may download a pdf of the scan of Governor Walker's MATHCOUNTS Proclamation here:

<http://wspe.org/PDF/0226-030312%20MATHCOUNTS%20Week%20&%20Day.pdf>

The local, regional and Wisconsin statewide MATHCOUNTS competitions came a close this week in 2012. As in years past, this year dozens of volunteers and seven coordinators generously organized, facilitated and made the regional competitions a success. We offer you a heartfelt THANK YOU!

Without our volunteers - consisting of graders, speakers, proctors and coordinators - there would be no MATHCOUNTS competition at all.

The Statewide Competition will be held on March 3, 2012 at the Lowell Center in Madison. Volunteers are still needed, if interested, contact Norm Arendt at narendt@tds.net.

A summary of the results of the Wisconsin Regional Competitions is shown below, highlighting those who will advance to the state competition in Madison, including teams and individuals.

The following schools will be advancing **TEAMS** onto the State Competition:

- Bay View
- Brookfield Academy
- Brown Deer
- DeLong
- Eagle School
- Eau Claire South
- John Muir
- JR Gerritts
- Lombardi
- Osceola
- Parkview
- Pilgrim Park
- Prairie School
- Red Smith School
- Rice Lake
- Roosevelt
- Silverbrook
- St. Anthony on the Lake
- St. Eugene
- St. Jude
- Steffen

The following schools will be advancing **INDIVIDUALS** (number denoted in parenthesis) onto the State Competition:

- Brookfield Academy (1)
- Chilton (1)
- Forest Park (1)
- Greendale (1)
- Holmen (1)
- Horace Mann (1)
- Hudson (2)
- Kettle Moraine (1)
- Mahone (2)
- Menomonie (2)
- Minocqua HazelhurstLake Tomahawk (1)
- Mosaic School (1)
- Mosinee (1)
- New Richmond (1)
- North Shore Middle (1)
- Parkview (1)
- Pilgrim Park (1)
- Prairie River (1)
- Prairie School (2)
- River Falls (1)

- Swallow School
- Thomas Jefferson
- Urban
- Velma Hamilton
- West Salem
- S&S Academy (1)
- Seton Catholic (1)
- St. Jude (2)
- Steffen (1)
- Stone Bank School (1)
- Swallow School (1)
- Thomas Jefferson (1)
- Velma Hamilton (2)
- Washington Jr. High (1)
- West Salem (3)

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5. Wisconsin Valley Chapter News

This year, the regional MATHCOUNTS competition was held at UW-Marathon County on Saturday, February 4th. Seven area middle schools were represented with a total of 44 students participating. The enthusiasm shown by these competitors is truly amazing and proof of its value. The team from John Muir Middle School (Wausau) and four individuals from Minocqua Hazelhurst Lake Tomahawk Elementary School, Horace Mann Middle School (Wausau), Mosinee Middle School and Prairie Middle School (Merrill) advanced to the State competition.

The WI Valley Chapter would like to thank the local sponsors for their generous donations to MATHCOUNTS and for investing in the young people from our area who will be the engineers, educators, and civic leaders of tomorrow.

Thanks again to:

Bruce Abbott, P.E.
 CWE - Hooshang Zeyghami, P.E.
 Angela Hanz, P.E.
 Becher Hoppe Engineers and Architects
 Clark Dietz
 Tensar International - Jim Howley, P.E.
 Wausau Homes
 Frank Opatik, P.E. - Opatik Engineering, LLC
 Joe Perlock, P.E. - Perlock Homes Inspections, LLC
 L&S Electric

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6. New Continuing Education Requirements for WI PE's

The former Department of Regulations and Licensing, now the Department of Safety and Professional Services (DSPS) has announced that the Engineers Section has adopted a new rule requiring all professional engineers to complete Continuing Education courses each biennium in order to maintain licensure.

This rule took effect on January 1, 2012, following four years of discussion, substantial input from PEs in the industry, and various hearings conducted by the Engineers Section of DSPS and the Wisconsin Legislature. The rule (refer to Administrative Code Section A-E 13, link below) requires that all PE's complete 30 Professional Development Hours (PDHs) of continuing education between August 1, 2012, and July 31, 2014 in order to be eligible to renew their PE license in July 2014, unless they are specifically exempted from this rule.

A quick summary of the new CE requirements:

- **30 hours of approved Personal Development Hours (PDHs) pertinent to the practice of professional engineering, every 2 years**
- A minimum of 2 of the 30 PDHs need to be in the area of professional conduct and ethics
- A minimum of 13 of the 30 PDHs need to be in courses where you interact in “real time” (e.g., in a classroom, computer conferencing, or interactive video conference where participants can communicate directly with each other and ask questions of the instructor)
- A maximum of 15 “excess” PDHs per biennium can be banked or carried over to count towards CE requirements for the next biennium
- PDHs can be earned by:
 - taking college classes;
 - completing short courses or tutorials (webinars) or distance education courses via the internet;
 - attending or presenting at qualifying seminars
 - authoring published papers, books, or articles in circulated journals or trade magazines;
 - teaching first-time courses pertinent to engineering
 - actively participating (officer or committee member) in professional and technical societies; or
 - attaining a patent relevant to the registrant’s area of professional practice.

There are several exceptions/exemptions to the new continuing education requirements, but for the most part Wisconsin engineers will now be required to do what engineers from 38 other states have been doing for some time: document their continuing education.

[Here’s a link to the DSPS announcement.](#)

[Here’s a link to a pdf of the new Wisconsin Administrative Code Section\(A-E 13\) that covers CE for PE’s.](#)

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7. Continuing Education: FAQs

The Wisconsin Legislature recently adopted continuing education requirements for Professional Engineers. The text of the requirements can be located at chapter A-E 13 of the Wisconsin Administrative Code.

The following answers some of the most frequently asked questions related to compliance with the new requirements. Questions about the requirements can also be answered by the Department of Safety and Professional Services, 1400 East Washington Avenue, Room 112, PO Box 8935, Madison, WI 53703, (608)-266-0627.

- [How many credits do I need?](#)
- [How and when do I report?](#)
- [Can I carryover excess credits?](#)
- [What activities qualify for PDHs?](#)
- [Can a Wisconsin PE carry forward some PDHs that he/she earned between mid-2010 and mid-2012?](#)
- [If a licensed PE in Wisconsin is also a licensed RLS in Wisconsin, would that person need to earn 30 PE + 20 RLS = 50 PDHs?](#)

Q: **How many credits do I need?**

A: **Active Professional Engineers**

To renew licensure as a Professional Engineer in 2014 and beyond, licensees will need to complete 30 professional development hours

(PDHs) every two years, unless exempted. Two of the 30 PDHs need to be in the area of professional conduct and ethics. Thirteen of the PDHs need to be obtained via interactive courses, such as in the classroom or video conferencing. [see A-E 13.03(1)(b), (c)]

Exceptions:

- **Engineers in their first registration period of Wisconsin admission.** Between the initial registration and the first renewal period, a new licensee does not need to comply with the PDH requirements. The licensee may, however, claim up to 15 PDHs taken between the date of their first registration period and the end of that registration period. These hours may not be used to satisfy the ethics or interactive course requirements. [see A-E 13.03(1)(a), (d)]
- **Engineer Emeritus.** An engineer can apply for an exemption from the PDH requirement if they obtain a waiver from the professional engineer section for emeritus status. The waiver can be granted if the licensee has maintained an active license for a minimum of 30 consecutive years, has retired from the profession and is no longer receive compensation for professional engineering services. [see A-E 13.08(4)]
- **Active Military Service.** A full or partial waiver, or an extension of time can be granted by the professional engineer section to the licensee, if the licensee was a full-time member in the uniformed services of the United States for a period of at least one year during the biennium. [see A-E 13.08(2)]
- **Extreme Hardship.** A full or partial waiver, or an extension of time to comply with the requirements can be obtained by the profession engineer section if the licensee is unable to comply with the requirements due to extreme hardship. Extreme hardship includes: 1) an incapacitating illness documented by a physician, 2) a physical inability to travel to approved program sites, or 3) any other extenuating circumstances acceptable to the professional engineer section. [see A-E 13.08(1), (2)]

Q: How and when do I report?

A: The professional engineer section is charged with adopting an approved recordkeeping form. Registrants will not need to file proof of completion to renew licensure but must certify on the licensure renewal application that they have fully completed the requirements. It is the responsibility of the licensee to maintain records of their PDHs earned for a minimum of the most recent 6 years (3 registration periods).

The professional engineer section will conduct random audits of all registrants for compliance with the requirements. If proof of compliance is requested by the professional engineer section, the licensee will have a period of 30 days to provide the documentation. [see A-E 13.06]

Q: Can I carryover excess credits?

A: Engineers may carry over up to 15 hours of PDH credit from one registration period into the next. Carryover can be derived only from activities attended during the two-year reporting period, and that are in excess of the necessary 30. Ethics credits and interactive credits carried over **do not** apply toward satisfying subsequent ethics or interactive requirements. [see A-E 13.03(1)(d)]

Q: What activities qualify for PDHs?

A: Professional development hours can be obtained through any of the following means:

[see A-E 13.03(2)]

- Completing courses at a school or college of engineering.
- Completing short courses or tutorial offered over the Internet or via DVD.
- Attending qualifying in-house seminars, courses or workshops.
- Teaching or instructing a course or qualifying in-house seminars, courses or workshops.
 - Eligible to multiply PDHs earned by a factor of 2.
 - Only the first presentation of program qualifies for PDHs.
 - Full-time faculty may not claim PDHs if part of regular duties.
- Publishing a paper, article, or book in a journal or trade magazine.
 - Each publication qualifies for 5 PDHs.
 - Peer reviewed papers, articles, or books qualify for 10 PDHs.
- Active participation in a professional or technical society.
 - Participation as an officer or committee member for one year qualifies for 2 PDHs.
 - A maximum of 4 PDHs per biennium may be obtained by participation.
- Attainment of a patent relevant to the licensee's area of professional practice.
 - Each patent qualifies for 10 PDHs.

Q: Can a Wisconsin PE carry forward some PDHs that he/she earned between mid-2010 and mid-2012 to satisfy the 30 PDH requirement for Wisconsin's first 30-PDH-biennium of mid-2012 to mid-2014 (refer to A-E 13.03 (1) (d))?

A: For the first biennium that the PDH requirements are in effect, there is no carryover available. The PDH credits must be obtained between 8/1/2012-7/31/2014. After this initial biennium, the carryover will apply. If an engineer gets over the 30 required hours between 8/1/2012-7/31/2014, they can carryover PDH credits per A-E 13.03(1)(d).

Q: If a licensed PE in Wisconsin is also a licensed RLS in Wisconsin, would that person need to earn 30 PE + 20 RLS = 50 PDHs minimum per biennium (other than PDHs that may be carried forward)?

A: If the courses taken meet the requirements for both professions, then the PDH credits can be applied to both licenses.

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- ...get your PE license?

Tell us about it! Send your new information to Ed Rodden, WSPE Executive Director, at ExecDir@wspe.org or call him at (414) 531-1129 and he'll make sure your information is updated in both the WSPE and NSPE databases. We'd also like to include an article in the next eNews summarizing your recent change or accomplishment to inform your fellow WSPE members.



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