

**STATE OF WISCONSIN  
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,  
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL  
LAND SURVEYORS**

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**IN THE MATTER OF RULEMAKING :  
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE  
EXAMINING BOARD OF : CR 20-014  
ARCHITECTS, LANDSCAPE :  
ARCHITECTS, PROFESSIONAL :  
ENGINEERS, DESIGNERS, AND :  
PROFESSIONAL LAND SURVEYORS :**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

N/A

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA is attached.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

The Designer Section determined that a revision of ch. A-E 5 was necessary after applications for a permit required multiple requests for additional information. Input was solicited from the Designer Section, the Professional Engineer Section, the A-E Board, and the A-E Rules Committee. The resulting proposed revisions provide clarification on qualifications for a designer permit, specifically by:

- Clarifying that an applicant's experience under s. A-E 5.03 (1) (e) must demonstrate a working knowledge of all examination topics under s. A-E 5.04 in the field or subfield for which the applicant has applied;
- Further emphasizing that the Designer Section has the statutory discretion in reviewing experience to determine whether it demonstrates competency;
- Replacing the terms 'board' with 'section' and 'private sewage systems' with 'private on-site wastewater treatment systems' to be consistent with statute; and
- Amending the chapter to conform with statutory changes, drafting standards, and for consistency.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

The Rules Committee of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors held a public hearing on April 21, 2020. No public comments were received.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

**Comment 5.b:**

The term “onsite” is more commonly used than the term “on-site” within plans and designs. In addition, use of the term “onsite” is consistent with other provisions in administrative code (for example, ch. SPS 383, *Private Onsite Wastewater Treatment Systems*, and ch. SPS 387, *Private Onsite Wastewater Treatment System Replacement or Rehabilitation Financial Assistance Program*).

All other Legislative Council recommendations have been incorporated into the proposed rules.

**VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:**

N/A

STATE OF WISCONSIN  
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,  
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND  
SURVEYORS

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IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS,	:	ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS,	:	ARCHITECTS, PROFESSIONAL
PROFESSIONAL ENGINEERS,	:	ENGINEERS, DESIGNERS, AND
DESIGNERS, AND PROFESSIONAL LAND:	:	PROFESSIONAL LAND SURVEYORS
SURVEYORS	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 20-014)

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PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to repeal A-E 5.02 and (Note) and 5.04 (8) (Note); to amend A-E 5.03 (2), 5.04 (1) (d) (intro.) and 1. to 6., (3), (5), (6), (7), (7) (Note), and (8) (a), and 5.06 (1), (2) (intro.) and (c), and (6); and to create A-E 5.03 (1) (e), relating to designer permits.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** s. 443.07, Stats.

**Statutory authority:** ss. 15.08 (5) (b), 227.11 (2) (a), and 443.07 (1), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats., provides examining boards, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains...”

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency, “may promulgate rules interpreting provisions of any statute enforced or administered by the agency. . .”

Section 443.07 (1), Stats., provides that, “[a]n applicant for a permit as a designer shall submit as evidence satisfactory to the designer section of the examining board ... a specific record ... in the field or branch, as determined by the designer section, in which certification is sought.”

**Related statute or rule:**

A-E 2 and A-E 8

**Plain language analysis:**

The proposed revisions provide clarification on qualifications for a designer permit, specifically by:

- Clarifying that an applicant's experience under s. A-E 5.03 (1) (e) must demonstrate a working knowledge of all examination topics under s. A-E 5.04 in the field or subfield for which the applicant has applied;
- Further emphasizing that the Designer Section has the statutory discretion in reviewing experience to determine whether it demonstrates competency;
- Replacing the terms 'board' with 'section' and 'private sewage systems' with 'private onsite wastewater treatment systems' to be consistent with statute; and
- Amending the chapter to conform with statutory changes, drafting standards, and for consistency.

**Summary of, and comparison with, existing or proposed federal regulation:**

None.

**Summary of public comments and feedback on the statement of scope:**

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors, upon direction under s. 227.136 (1), Stats., held a preliminary public hearing and comment period during the A-E Rules Committee meeting on April 23, 2019 for SS 022-19. After receiving no public comments, the Committee, on behalf of the A-E Board, approved the statement of scope for implementation.

**Comparison with rules in adjacent states:****Illinois:**

Technical submissions to local code enforcement officials must be signed and sealed by a design professional. Design professionals in the state of Illinois are limited to Professional Land Surveyors, Structural Engineers, Professional Engineers, and Architects. Illinois does not issue permits or similar credentials for Designers of Engineering Systems.

**Iowa:**

Submissions of plans to the Iowa Department of Public Safety, Building Code Bureau must be completed by responsible design professionals including Registered Architects and Licensed Professional Engineers. Professional engineers are licensed according to the specific branch of engineering for which they passed the Principles and Practice of Engineering, including the structural engineering exam. Iowa does not issue permits or similar credentials for Designers of Engineering Systems.

**Michigan:**

Plans submitted to the Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes must be sealed by a design professional, including Architects, Professional Engineers, and Land Surveyors. Michigan does not issue permits or similar credentials for Designers of Engineering Systems.

**Minnesota:**

Plans submitted to the Minnesota Department of Labor and Industry must be certified by a licensed design professional, including Architects, Professional Engineers, Land Surveyors, Landscape Architects, Certified Interior Designers, Professional Soil Scientists, and Professional Geologists. Minnesota does not issue permits or similar credentials for Designers of Engineering Systems.

**Summary of factual data and analytical methodologies:**

The Designer Section determined that a revision of ch. A-E 5 was necessary after applications for a permit required multiple requests for additional information. Input for the proposed revisions to ch. A-E 5 was solicited from the Designer Section, the Professional Engineer Section, the A-E Board, and the A-E Rules Committee.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:**

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis document is attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov or by calling (608) 267-2435.

**Agency contact person:**

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53705-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to

DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing scheduled for 1:00 PM on April 21, 2020 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. A-E 5.02 and (Note) are repealed.

SECTION 2. A-E 5.03 (1) (e) is created to read:

**A-E 5.03 (1) (e)** All topics under s. A-E 5.04 (1) (b) 1. to 5., (c) 1. and 2., (d) 1. to 7., (e) 1. and 2., or (f) 1. to 5., as applicable, in the field or subfield for which the applicant has applied.

SECTION 3. A-E 5.03 (2) is amended to read:

**A-E 5.03 (2)** AREAS OF EXPERIENCE. ~~To qualify as satisfactory experience in the design of engineering systems under s. 443.07, Stats., the~~ The experience of an applicant for a permit shall be substantially in the field or subfield for which the applicant has applied, and the experience shall demonstrate competence to be in charge of work in that specific field or subfield to the satisfaction of the section. Fields and subfield subfields are described in s. A-E 5.06. The experience shall be in areas of design practice designated under subs. (3) and (4), or other areas which, in to the opinion satisfaction of the board section, provide provides the applicant with knowledge or practice at least equivalent to that which what is generally acquired by experience in the areas listed. An applicant need not have experience in all areas of practice listed under subs. (3) and sub. (4). However, all applicants shall have experience in those areas listed in sub. (3) (a) and (b). Academic coursework which that provides the applicant with knowledge and skills in some of the areas of practice listed under subs. (3) and (4) may be claimed as equivalent to experience, in accordance with the limitations in s. 443.07 (2), Stats.

SECTION 4. A-E 5.04 (1) (d) (intro.) and 1. to 6., (3), (5), (6), (7), (7) (Note), and (8) (a) are amended to read:

**A-E 5.04 (1) (d) (intro.)** ~~The examination for a permit in the subfield of private sewage onsite wastewater treatment systems as defined in s. 145.01 (12), Stats., requires an applicant to demonstrate competency in:~~

1. Knowledge of soils;\_
2. Design of private sewage onsite wastewater treatment systems;\_
3. Applicable administrative code and statutory provisions;\_
4. Knowledge of applications and reports, including but not limited to soil boring and percolation reports;\_
5. Mapping skills and interpretation;\_
6. Knowledge of all systems in the subfield and design of the systems;\_ ~~and.~~

(3) APPLICATION FOR EXAMINATION. An application for examination must be filed with the ~~board~~ section no later than 2 months before the scheduled date for the examination.

(5) TIME, DATE AND SITE OF EXAMINATIONS. The examinations shall be held at a time, date and site specified by the ~~board~~ section.

(6) GRADING OF WRITTEN EXAMINATIONS. The passing scores set by the ~~board~~ section represent the minimum competency required to protect public health and safety. An applicant's experience rating is not considered by the ~~board~~ section in grading the applicant's written examination.

(7) REEXAMINATION PROCEDURE. An applicant for a designer examination who fails an examination or any part of an examination may retake any part of the examination failed at a regularly-scheduled administration of the examination. If an applicant fails to pass, on reexamination of the parts failed, or, the current examination parts equivalent to the parts failed, within 4 years from the date of receipt of the results of the first failure of the examination or any part of the examination, the applicant is required to take and pass the entire examination. If the applicant retakes the entire examination, the applicant shall pay the original examination fee under s. 440.05 (1), Stats. The ~~board~~ section shall determine which parts of a current examination are equivalent to the examination parts failed by an applicant.

**Note:** Examination fees are available on the department's website at [dsps.wi.gov](http://dsps.wi.gov), or by request to the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or by calling call (608) 266 - 2112.

(8) (a) *One-year limitation.* An applicant for a designer examination may review questions on any part of an examination failed by the applicant within one year from the date of the examination, ~~as specified in s. 443.09 (6), Stats.~~ An applicant may review the examination only once.

SECTION 5. A-E 5.04 (8) (Note) is repealed.

SECTION 6. A-E 5.06 (1), (2) (intro.) and (c), and (6) are amended to read:

**A-E 5.06 (1)** Design services which may be performed by designers are the preparation of plans and specifications, consultation, investigation, and evaluation in connection with the preparation of plans and specifications in those fields and ~~subfield~~ subfields set forth in sub. (2).

(2) (intro.) Permits for the design of engineering systems shall be issued in the following fields and ~~subfield~~ subfields:

(c) The subfield of private sewage onsite wastewater treatment systems.

(6) (a) A master plumber's license restricted to private sewage onsite wastewater treatment systems issued pursuant to s. 145.14, Stats., shall be deemed equivalent to 4 years of approved experience in designing private sewage onsite wastewater treatment systems. The mathematics and mechanical science portions of the examination for the subfield of private sewage onsite wastewater treatment systems may be waived for an

applicant who holds ~~such~~ the license. An applicant who does not hold ~~such~~ that license shall take the mathematics, mechanical science, and practice portions of the examination for the subfield of private ~~sewage~~ onsite wastewater treatment systems.

(b) A plumbing design permit in the subfield of private ~~sewage~~ onsite wastewater treatment systems shall be limited to the design of septic tanks for private ~~sewage disposal~~ onsite wastewater treatment systems, drain fields designed to serve ~~such~~ septic tanks, and the sewer service from the septic tank or sewer extensions from mains to the immediate inside or proposed inside foundation wall of the building.

SECTION 7. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)  
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This Proposed Order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors is approved for submission to the Governor and Legislature.

Dated April 29, 2020

Agency 

Chair  
Examining Board of Architects, Landscape  
Architects, Professional Engineers,  
Designers, and Professional Land Surveyors

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date March 23, 2020</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) A-E 5</p>	
<p>4. Subject Designer permits</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b></p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The proposed revisions provide clarification on qualifications for a designer permit, specifically by:</p> <ul style="list-style-type: none"><li>• Clarifying that an applicant's experience under s. A-E 5.03 (1) (e) must demonstrate a working knowledge of all topics the applicable examination under s. A-E 5.04 requires a demonstration of competency.</li><li>• Further emphasizing that the Designer Section has the statutory discretion in reviewing experience to determine whether it demonstrates competency;</li><li>• Replacing the terms 'board' with 'section' and 'private sewage systems' with 'private onsite wastewater treatment systems' to be consistent with statute; and</li><li>• Amending the chapter to conform with statutory changes, drafting standards, and for consistency.</li></ul>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is providing clarity with regard to qualifications for a designer permit and consistency with drafting standards and applicable Wisconsin statutes. If the rule is not implemented, the qualifications for a designer permit will remain unclear.</p>	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is clarity with regard to qualifications for a designer permit and consistency with drafting standards and applicable Wisconsin statutes.

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17. Compare With Approaches Being Used by Federal Government

None.

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Technical submissions to local code enforcement officials must be signed and sealed by a design professional. Design professionals in the state of Illinois are limited to Professional Land Surveyors, Structural Engineers, Professional Engineers, and Architects. Illinois does not issue permits or similar credentials for Designers of Engineering Systems.

Iowa:

Submissions of plans to the Iowa Department of Public Safety, Building Code Bureau must be completed by responsible design professionals including Registered Architects and Licensed Professional Engineers. Professional engineers are licensed according to the specific branch of engineering for which they passed the Principles and Practice of Engineering, including the structural engineering exam. Iowa does not issue permits or similar credentials for Designers of Engineering Systems.

Michigan:

Plans submitted to the Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes must be sealed by a design professional, including Architects, Professional Engineers, and Land Surveyors. Michigan does not issue permits or similar credentials for Designers of Engineering Systems.

Minnesota:

Plans submitted to the Minnesota Department of Labor and Industry must be certified by a licensed design professional, including Architects, Professional Engineers, Land Surveyors, Landscape Architects, Certified Interior Designers, Professional Soil Scientists, and Professional Geologists. Minnesota does not issue permits or similar credentials for Designers of Engineering Systems.

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19. Contact Name

Dale Kleven, Administrative Rules Coordinator

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20. Contact Phone Number

(608) 261-4472

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This document can be made available in alternate formats to individuals with disabilities upon request.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
-