

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

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
EXAMINING BOARD OF : **CR 19-152**
ARCHITECTS, LANDSCAPE :
ARCHITECTS, PROFESSIONAL :
ENGINEERS, DESIGNERS, AND :
PROFESSIONAL LAND SURVEYORS :

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 Section has reviewed the chapter and made revisions to:

- Insert cross-references into s. A-E 9.06 (6) for relevant statutes to implement 2017 Act 278, which made various changes to the circumstances under which a licensing agency may base its decisions on an individual's criminal history.
- Repeal s. A-E 9.05 (4) and (8). As the Landscape Architect Section does not administer the examination required for registration as a landscape architect, these provisions are obsolete.
- Revise the chapter for clarity, consistency, and to meet drafting standards.

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 January 7, 2020. No one testified at the hearing and no one submitted written comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All 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

IN THE MATTER OF RULE-MAKING	:	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	:	PROFESSIONAL LAND
LAND SURVEYORS	:	SURVEYORS ADOPTING
	:	RULES
	:	(CLEARINGHOUSE RULE 19-152)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to repeal A-E 9.05 (4) and (8); to renumber and amend A-E 9.05 (1) (a) and (c); to amend A-E 9.02 (2), 9.03 (1) (a) and (b), 9.04, 9.05 (7), and 9.06 (1), (5), and (6); to repeal and recreate A-E 9.05 (title); and to create A-E 9.025, relating to landscape architect registration.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 111.335 (4), 443.035, and 443.09, Stats.

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board, “shall 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., provides that, “each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Related statute or rule:

A-E 11

Plain language analysis:

The Section has reviewed the chapter and made revisions to:

- Insert cross-references into s. A-E 9.06 (6) for relevant statutes to implement 2017 Act 278, which made various changes to the circumstances under which a licensing agency may base its decisions on an individual's criminal history.
- Section A-E 9.05 (4) and (8) are repealed. As the Landscape Architect Section does not administer the examination required for registration as a landscape architect, these provisions are obsolete.
- Revise the chapter for clarity, consistency, and to meet drafting standards.

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

None.

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

Landscape architects are licensed by the Illinois Landscape Architect Registration Board under the Illinois Department of Financial and Professional Regulation. The Board does not have a process for preliminary determinations concerning whether any court judgments against the applicant would result in a denial of a license. If an applicant has a criminal history, the board must consider mitigating factors and evidence of rehabilitation. The board may not consider sealed or expunged records.

Iowa:

Landscape architects are licensed by the Landscape Architectural Examining Board, attached to the Iowa Professional Licensing Bureau. The Board does not have a process for preliminary determinations concerning whether any court judgments against the applicant would result in a denial of a license. The application requirements are substantially similar to Wisconsin's requirements.

Michigan:

Landscape architects are directly licensed by the Bureau of Professional Licensing of the Department of Licensing and Regulatory Affairs. Under s. 339.202a, MCL, the department shall provide preliminary determinations concerning whether any court judgments against an applicant would result in a denial of a license.

Minnesota:

Landscape architects are licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design. The Board does not have a process for preliminary determinations concerning whether any court judgments against the applicant would result in a denial of a license. If an applicant has a criminal history, the board must consider mitigating factors and evidence of rehabilitation.

Summary of factual data and analytical methodologies:

The Landscape Architect Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors closely reviewed A-E 9 to develop the proposed rule revisions.

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.Hereh@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 53708; 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, 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 to be held on the proposed rules. Information concerning the date, time, and location of the public hearing will be published in the Wisconsin Administrative Register and posted on the Legislature’s website at <https://docs.legis.wisconsin.gov/code/chr/hearings>.

TEXT OF RULE

SECTION 1. A-E 9.02 (2) is amended to read:

A-E 9.02 (2) An applicant ~~who files an application but~~ who does not comply with a request for information related to ~~the~~ an application within one year from the date of the request shall file a new application and fee.

SECTION 2. A-E 9.025 is created to read:

A-E 9.025 Definitions. In this chapter:

(1) “Allied profession” means engineering or architecture.

(2) "Allied professional" means a licensed professional engineer or architect.

SECTION 3. A-E 9.03 (1) (a) and (b) are amended to read:

A-E 9.03 (1) (a) To qualify as satisfactory experience in landscape architecture for the purposes of s. 443.035, Stats., an applicant's experience shall include the application of accepted principles in the practice of landscape architecture and shall demonstrate an applicant's progressive development of competence to practice landscape architecture. The experience shall be acquired in the areas of the practice of landscape architecture listed in sub. (2) (a) to (g), or in other areas of the practice of landscape architecture which in the opinion of the ~~board~~ landscape architect section provide the applicant with a knowledge of principles and data related to the practice of landscape architecture at least equivalent to that which would be acquired by experience in the areas of practice listed. Experience in every listed area is not required.

(b) To qualify as satisfactory experience in landscape architecture for the purposes of s. 443.035 (1) (a), Stats., an applicant's experience ~~must~~ shall be obtained subsequent to completion of the education requirements.

SECTION 4. A-E 9.04 is amended to read:

A-E 9.04 (1) In satisfaction of the education requirement under s. 443.035 (1) (a), Stats., the ~~board~~ landscape architect section accepts bachelor's or master's degrees in landscape architecture granted by a college or university accredited by the ~~landscape architecture accreditation board~~ Landscape Architecture Accreditation Board of the American ~~society~~ Society of landscape architects Landscape Architects or a degree determined by the ~~board~~ landscape architect section to be equivalent thereto. If the degree is from an international educational institution, the applicant shall provide an official evaluation by a transcript evaluation service acceptable to the ~~board~~ landscape architect section which shows that the degree is equivalent to a bachelor's degree in landscape architecture or a master's degree in landscape architecture granted by a college or university accredited by the ~~landscape architecture accreditation board~~ Landscape Architecture Accreditation Board of the American ~~society~~ Society of landscape architects Landscape Architects.

(2) In satisfaction of the education requirement under s. 443.035 (1) (b), Stats., the ~~board~~ landscape architect section accepts coursework in landscape architecture completed at a college or university accredited by the ~~landscape architecture accreditation board~~ Landscape Architecture Accreditation Board of the American ~~society~~ Society of landscape architects Landscape Architects, or other equivalent college level coursework in landscape architecture or in an area related to landscape architecture, completed at a college or university accredited by a regional accrediting agency approved by the state board of education in the state in which the college or university is located.

SECTION 5. A-E 9.05 (title) is repealed and recreated to read:

A-E 9.05 (title) Examination requirement.

SECTION 6. A-E 9.05 (1) (a) and (c) are renumbered A-E 9.05 (1) and (2) and are amended to read:

A-E 9.05 (1) SCOPE OF WRITTEN EXAMINATIONS LANDSCAPE ARCHITECT REGISTRATION EXAMINATION. An applicant for initial registration as a landscape architect shall pass an examination determined by the landscape architecture section to assess knowledges required for the professional practice of landscape architecture, in accordance with sub. (2), the Landscape Architect Registration Examination, LARE, prepared by the Council of Landscape Architectural Registration Boards, or an equivalent examination as determined by the landscape architect section.

(2) MINIMUM COMPETENCY. The passing scores for an examination under sub. (1) for each section or in combination as appropriate shall be set by the ~~board~~ landscape architect section to represent the minimum competency required to protect public health and safety.

SECTION 7. A-E 9.05 (4) is repealed.

SECTION 8. A-E 9.05 (7) is amended to read:

A-E 9.05 (7) REEXAMINATION. ~~An~~ In accordance with s. 443.09 (5), Stats., an applicant failing any part of an examination may be reexamined on the part or parts failed, except that after failure of 3 reexaminations, the ~~board~~ landscape architect section shall require a one-year waiting period before further ~~reexaminations~~ reexamination on the part or parts failed.

SECTION 9. A-E 9.05 (8) is repealed.

SECTION 10. A-E 9.06 (1), (5), and (6) are amended to read:

A-E 9.06 (1) Official transcripts of graduate and undergraduate training, properly attested to by the degree granting institution and submitted by the institution directly to the ~~board~~ landscape architect section.

(5) For ~~applicants~~ an applicant previously licensed in another state, territory, or possession of the United States or in another country, verification of the applicant's licensure in the licensing jurisdiction of original licensure or, if the applicant has permitted ~~his or her~~ the registration in the jurisdiction of original licensure to lapse, verification of licensure in the licensing jurisdiction where the applicant is currently licensed and where the applicant was last engaged in the practice of landscape architecture.

(6) For ~~applicants~~ an applicant who ~~have~~ has a pending criminal charge or ~~have~~ has been convicted of a crime, all related information necessary for the ~~board~~ landscape architect section to determine whether the circumstances of the pending criminal charge or criminal conviction are substantially related to the circumstances of the practice of landscape architecture, subject to ss. 111.321, 111.322, and 111.335, Stats.

SECTION 11. 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.

(END OF TEXT OF RULE)

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 1.8.2020

Agency Rosheen Styczenkyn
Chair
Rules Committee
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 October 28, 2019</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) A-E 9</p>	
<p>4. Subject Landscape architect registration</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 Governmental Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</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 Section has reviewed the chapter and made revisions to:</p> <ul style="list-style-type: none">• Insert cross-references into s. A-E 9.06 (6) for relevant statutes to implement 2017 Act 278, which made various changes to the circumstances under which a licensing agency may base its decisions on an individual's criminal history; and• Revise the chapter for clarity, consistency, and to meet drafting standards.	
<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 consistency with current practices and drafting standards, and applicable Wisconsin statutes. If the rule is not implemented, it will continue to not reflect current Wisconsin statutes.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is consistency with current practices and drafting standards, and applicable Wisconsin statutes.</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Federal Government
None.

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

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19. Contact Name

Dale Kleven, Administrative Rules Coordinator

20. Contact Phone Number

(608) 261-4472

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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)

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

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:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

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

- Yes No
-