Clearinghouse Rule 20-014

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

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

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) (a) and (b); and to create A-E 5.03 (1) (e), relating to designer permits.

Analysis prepared by the Department of Safety and Professional Services.

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 topics the applicable examination under s. A-E 5.04 requires a demonstration of competency.
- 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.

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, or by request from 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) (a) and (b) 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.

(END OF TEXT OF RULE)