

Subchapter 7 – Designer Licensing

§1-701 General Requirements

- (a) No person shall design a potable water supply or wastewater system that requires a permit, or requires a designer's certification, under these Rules without first obtaining a designer's license from the Secretary, except for professional engineers who meet the requirements of subsection (b) of this section.
- (b) A professional engineer shall be deemed to have a valid designer's license under this section, without going through the licensing process, provided that:
 - (1) the engineer is practicing within the scope of his or her engineering specialty; and
 - (2) if the engineer designing soil-based disposal systems after June 30, 2003, the engineer, prior to designing:
 - (A) submits evidence to the Vermont Board of Professional Engineering that demonstrates that he or she has satisfactorily completed a college-level soils identification course with specific instruction in the areas of soils morphology, genesis, texture, permeability, color, and redoximorphic features; or
 - (B) passes a soils identification test administered or approved by the Secretary; or
 - (C) retains one or more designers who have taken the course specified in this subsection or passed the soils identification test, whenever performing work regulated under these Rules. The name of the designer responsible for the soils identification for the project shall be included as part of any application or certification
- (c) No person shall review or act on permit applications for a potable water supply or wastewater system that he or she designed or installed.

§1-702 Scope of Authority for Designers Who Are Not Professional Engineers

- (a) Designers who are not professional engineers may prepare designs and the associated applications, for any project that requires a permit under these Rules, subject to the limitations of the class of license that they hold and the limitations described in this section. These designers may:
 - (1) design one or more soil-based disposal systems serving one or more buildings or structures or campgrounds, each of which has a design flow of 1350 gallons per day or less and that is expected to serve no more than 24 people;

§1-702(a)(2) Scope of Authority for Designers Who Are Not Professional Engineers

- (2) design a connection to a municipal or private sewage collection system from an individual building, structure, or campground, any of which has a design flow of 1350 gallons per day or less, that is expected to serve no more than 24 people. The individual building sewer connection may be of any length and may include a pumping station when connected to a gravity flow collection system;
 - (3) design one or more potable water supplies serving one or more buildings or structures or campgrounds, each of which has a design flow of 1350 gallons per day or less and that is expected to serve no more than 24 people;
 - (4) prepare designs and any associated applications for municipal approval required by a municipal sewage ordinance adopted pursuant to chapter 102 of Title 24 or municipal zoning bylaw provided that the design is limited to the type of wastewater system and/or water supply for which they are authorized under this section;
 - (5) perform reviews for a municipality of applications required by a municipal sewage ordinance adopted pursuant to chapter 102 of Title 24 or municipal zoning bylaw; and
 - (6) prepare design certifications and installation certifications provided the design is limited to the type of wastewater system and/or potable water supply for which they are authorized under this section.
- (b) Notwithstanding the authorities described above, designers who are not professional engineers shall not design the following types of soil-based disposal systems, municipal connections or water supplies:
- (1) soil-based disposal systems subject to the Indirect Discharge Rules;
 - (2) soil-based disposal systems using innovative/alternative systems or products that have received pilot or experimental use approval;
 - (3) soil-based disposal systems using innovative/alternative systems or products that have received general use approval when the approval specifies that the design must be prepared by a professional engineer;
 - (4) any soil-based disposal system disposing of non-domestic wastewater unless the Secretary has determined it to be compatible with domestic type wastewater. Domestic type wastewater includes, but is not limited to, wastewater associated with toilet use, bathing, clothes washing, cooking, and building maintenance. Examples of wastewater that is non-domestic includes process water, cooling water, and water used for building maintenance that has the potential to be contaminated with materials used in industrial processes.

§1-702(b)(5) Scope of Authority for Designers Who Are Not Professional Engineers

- (5) connections to a pressure sewer line that connect to a municipal or private sewerage collection system;
- (6) connections to a municipal or private sewage collection system for the disposal of non-domestic wastewater unless the Secretary has determined it to be compatible with domestic type wastewater. Domestic type wastewater includes, but is not limited to, that associated with toilet use, bathing, clothes washing, cooking, and building maintenance. Examples of wastewater that is non-domestic includes process water, cooling water, and that used for building maintenance that has the potential to be contaminated with materials used in industrial processes;
- (7) any water source or distribution system subject to the Vermont Water Supply Rules as a Public Water System;
- (8) any connection into an existing public water supply other than an individual service line serving a building or structure or campground with a design flow of 1350 gallons per day or less;
- (9) any water supply connection that includes a fire hydrant or fire suppression system with more than 2 sprinkler heads; and
- (10) water treatment systems.

§1-703 Classes of Designer Licenses

- (a) In addition to the restrictions for designers who are not professional engineers described in subsection 1-702(b) of these Rules, there are different classes of designer licenses that authorize designers to do different types of work. These classes are:
 - (1) Class 1 – a professional engineer who is authorized to do all aspects of site evaluation, application preparation, certification, and application review for a municipality, provided that he or she complies with subsection 1-701(b) of these Rules;
 - (2) Class A – a designer who can do all aspects of site evaluation, application preparation, certification, and application review for a municipality, except the following:
 - (A) design site modifications, as described in section 1-912 of these Rules;
 - (B) design storage and dose systems, as described in section 1-921 of these Rules;
 - (C) design wastewater disposal systems using the two-year time of travel approach, as described in section 1-920 of these Rules;

§1-703(a)(2)(D) Classes of Designer Licenses

- (D) design any type of potable water supply other than a single source serving only one single family residence;
 - (E) design gravity storage tanks for potable water supplies;
 - (F) design innovative/alternative systems approved under Subchapter 10 of these Rules unless the specific approval authorizes Class A designers to design the product or system; and
 - (G) review applications for a municipality that include designs that a Class A designer is not authorized to design.
- (3) Class B – a designer who is authorized to do all aspects of site evaluation, application preparation, certification, and application review for a municipality, except for the following:
- (i) design storage and dose systems, as described in section 1-921 of these Rules; and
 - (ii) design potable water supplies that serve anything other than single family residences on their own lots until he or she has taken and passed an exam administered by the secretary regarding the design, construction, and operation of potable water supplies.

Note: Designers licensed under these Rules are permitted to design water and wastewater systems to the limits that they are tested and licensed under these Rules. Licensure under these Rules does not constitute authority to design, provide specification, or consulting services for any work beyond water and wastewater systems. Designers licensed solely under these Rules are not licensed to prepare plans, designs for other civil works including, but not limited to, stormwater systems, grading plans, roadways, access drives, culvert or bridge design, boundary surveys, or subdivision plans or any other services which constitute the practice of engineering or surveying as determined by the Boards of Professional Engineering or Land Surveying.

§1-704 Application for License; Examinations

- (a) A person who wants a Class A or Class B designer’s license must:
- (1) submit a completed and signed application form, provided by the Secretary. The Secretary must receive the application at least three weeks prior to the date of the required examination to ensure processing can be completed with sufficient notice to the applicant. Applications arriving less than three weeks prior to the examination will be processed to the extent possible;
 - (2) pay the fee for designers as specified in 3 V.S.A. §2822; and

§1-704(a)(3) Application for License; Examinations

- (3) complete and pass the examination administered or approved by the Secretary.
- (b) Examinations for Class A and Class B designers shall consist of both written and field examinations prepared or approved by the Secretary. The examinations shall be offered at least once per year at a time and place publicly announced at least six weeks before the examination and shall be adequate to distinguish between Class A and Class B licenses.
- (c) When the Secretary makes a decision to issue or deny a designer's license, notice shall be furnished in writing to the applicant within ten (10) days of the decision.

§1-705 License Renewal

- (a) Class A and Class B designers shall maintain their licenses by annually filing a request for renewal, accompanied by the applicable fee, and if required that year, an affidavit of proof of continuing education. Expiration of a license for a period exceeding 2 years shall require re-examination prior to re-licensing.
- (b) Renewals shall not be granted unless the continuing education requirements are met; except that a provisional license may be granted for a period not to exceed 6 months based on a date-specific schedule that will allow a designer to fulfill the continuing education requirements. No designer may be granted more than one provisional license in a four year period.
- (c) All Class A and B designer licenses shall expire annually on December 31st unless renewed.
- (d) Notwithstanding the other requirements of this section, designers certified as site technicians prior to April 26, 1977 shall remain licensed provided they pay the licensing fees necessary to maintain their licenses without expiration and provided that they fulfill the continuing education requirements. In addition, these designers: are subject to the imposition of conditions, suspension or revocation; are not entitled to a Class B certification without first passing the examination; and are subject to all other provisions related to designers who are not professional engineers.

§1-706 Continuing Education

- (a) All Class A and Class B designers shall complete at least 12 hours of continuing education related to the design, construction, operation, or maintenance of wastewater systems and potable water supplies every 2 years. Proof that the required continued education has been completed will be required for all renewals starting December 1, 2006. Of the 12 hours required, at least 4 hours shall consist of soil related, in-field courses. All courses must be attended in person. Viewing of recordings of courses or on-line courses shall not count towards the continuing education requirements. The Secretary will provide sufficient training sessions to allow for fulfillment of this requirement. The Secretary may also recognize training provided by others as meeting this requirement. It is recommended that pre-approval be requested to ensure that training provided by others will be considered acceptable. In order to demonstrate completion of the continuing education requirements, the designer shall

§1-706(a) Continuing Education

submit an affidavit, using the form provided by the Secretary, every other year at the time of license renewal.

§1-707 Complaints; Disputes

- (a) The Secretary may review, on a random basis or in response to a complaint, the testing procedures employed by a designer, the systems designed by a designer, the designs approved or recommended for approval by a designer, and any work associated with the performance of these tasks. This review authority shall apply to all types of designers, including professional engineers.
- (b) If there is a dispute between the Secretary and a professional engineer concerning the design prepared by the engineer or the judgment exercised by the engineer, the engineer may request that the disputed issues be reviewed by a professional engineer employed or retained by the Secretary. The Secretary shall grant all such requests for review.

§1-708 Disciplinary Actions; Enforcement

- (a) The Secretary, after a hearing conducted in accordance with Chapter 25 of Title 3, may suspend, revoke or impose conditions on a designer's license, except one held by a professional engineer. Notice of that revocation shall be included in the next Environmental Notice Bulletin. This proceeding may be initiated on the Secretary's own motion or upon a written request which contains facts or reasons supporting the request for the imposition of conditions, suspension, or revocation. Conduct specified in 3 V.S.A. §129(a) as constituting unprofessional conduct by a licensee is cause for imposing conditions on a designer's license or for the suspension or revocation of a license. In response to a complaint, or on his or her own motion, the Secretary shall refer deficiencies in design or installation performed by a professional engineer under these Rules to the Board of Professional Engineering for further investigation and potential disciplinary action.
- (b) In addition to licensure actions, the secretary may initiate an enforcement action against a designer as specified in subchapter 4 of these Rules.