

Report From Agency

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

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
EXAMINING BOARD OF : **CR 13-020**
ARCHITECTS, LANDSCAPE :
ARCHITECTS, PROFESSIONAL :
ENGINEERS, DESIGNERS :
AND LAND SURVEYORS :

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

None.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are 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 purpose of the proposed rule is to allow architects, landscape architects, professional engineers, designers, and land surveyors to seal or stamp plans, drawings, documents, specifications or reports by electronic means. Currently, Wis. Admin. Code § A-E 2.02 (7) (a), requires that all seals or stamps affixed to public documents must be original, no stickers or electronically scanned images are allowed. The proposed rule would allow seals or stamps to be affixed to documents by crimp type, rubber stamp or by electronic means. If an architect, landscape architect, professional engineer, designer, or land surveyor chooses an electronic seal or stamp, then the electronic seal or stamp must meet the requirements of subch. II of ch. 137, Stats., a security procedure must be used, and the electronic submission must be permitted by the governmental unit that is to receive the documents.

Wis. Admin. Code § A-E 2.02 (7) (b), requires that all seals and stamps on drawings and specifications must be signed and dated by either permanent ink contrasting with the seal and background or by utilizing an electronic signature, meeting the requirements of s. 137.06, Stats., as long as it is permitted by the governmental unit that is to receive the

documents. The proposed rule amends the statutory reference from s. 137.06, Stats to subch. II of ch. 137, Stats., and will allow architects, landscape architects, professional engineers, designers, and land surveyors to sign documents by electronic means as long as the signature meets the requirement in subch. II of ch. 137, Stats., and have a security procedure. Scanned images of an original signature in lieu of an electronic signature will not be allowed.

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

The Board held a public hearing on April 25, 2013. The following people either testified at the hearing, or submitted written comments:

Mr. Martin Hanson, Professional Engineer Eau Clair, WI
Mr. William Babcock, Hon. AIA (American Institute of Architects) Madison, WI
Mr. Scot Balsavich, Professional Engineer. Rice Lake, WI

The Board summarizes the comments received either by hearing testimony or by written submission as follows:

Mr. Mark Hanson, P.E. provided written comments and presented testimony. He appeared in support of the rule change. He asserted that the engineer's seal and signature represent the fact that an individual takes professional responsibility for meeting the standard of care in the industry. However, project information is subject to change. Therefore electronic stamps and signatures must be secure and locked as well as the information contained in the document must be secure and locked at the same point in time. He also suggested distinguishing between seals and stamps due to the appearance that they are used interchangeably in the proposed rule. He pointed out that the requirement of a security procedure as defined in s. 137.11 (13), Stats., will be difficult for users to attain since there are a variety of electronic signing technologies. Lastly, he opined on how electronic signatures will impact new methods of communicating engineering data and designs.

Mr. William Babcock, Hon. AIA, provided written comments and presented testimony. He was concerned about whether the proposed rule would impact architects. He encouraged further review of the proposed changes. More specifically, he supported further defining of what an electronic signature is.

Mr. Scot Balsavich, P.E. provided written comments. He agreed that the Board should look at electronic delivery of signatures and seals in order to facilitate the move toward a "paperless" society. His concern was electronically sealed documents would change after being processed by agencies. He argued that the true purpose of sealing a document is to have the professional responsible for the preparations of a plan or document to retain full control over the entire document until the ultimate product such as a bridge, building or highway, is constructed.

The Board explains modifications to its rule-making proposal prompted by public comments as follows:

To alleviate concerns regarding control over the documents the Board added language requiring a security procedure that must be used when affixing electronic seals or stamps. The term security procedure as defined in s. 137.11 (13), Stats., was placed in a note under Wis. Admin. Code § A-E 2.02 (7) (b) 2. Language was also added prohibiting the use of scanned images of an original signature.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 5. The term “security procedure“, as used in Section 1 and 3, is not defined. A definition of the term would help to clarify the term for the reader.

Response: The term security procedure as defined in s. 137.11 (13), Stats., was placed in a note under Wis. Admin. Code § A-E 2.02 (7) (b) 2.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

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

None.