

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

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

PROPOSED ORDER OF THE EXAMINING BOARD OF
ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS
ADOPTING RULE
(CLEARINGHOUSE RULE 13-020)

ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to amend A-E 2.02 (7) (a) (intro.), 2.02 (7) (b) (intro.) and 2.02 (7) (b) 2., to repeal and recreate A-E 2.02 (7) (b) 2. (Note), to create A-E 2.02 (7) (a) (1), relating to electronic seals and signatures.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 443.17, Stats.

Statutory authority:

ss. 15.08 (5) (b), 227.11 (2) (a), and 443.17, Stats.

Explanation of agency authority:

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors has general power, pursuant to s. 15.08 (5) (b), Stats., to promulgate rules for guidance within its profession. The Board may also promulgate rules that interpret statutes they enforce or administer per s. 227.11 (2) (a), Stats. Section 443.17, Stats., regulates the use of seals and is administered by the Board. Therefore, the Board is authorized to promulgate rules that give guidance on the use of seals or signatures.

Related statute or rule:

s. A-E 2.02

Plain language analysis:

Registration seals and signatures must be utilized in the production of plans, drawings, documents, specifications, and reports generated by architects, landscape architects, professional engineers, designers and land surveyors. The proposed rule would allow the afore mentioned professionals to use an electronic seal or signature on documents submitted to governmental agencies as long as the electronic seal or signature conformed to the requirements of subch. II, ch. 137, Stats. and the governmental agency accepts such documents.

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

There are no comparable or existing proposed federal regulations.

Comparison with rules in adjacent states:

The following comparisons are the result of various internet searches:

Illinois: Architects, Engineers and Land Surveyors must have a reproducible seal or facsimile, which may be computer generated. Ill. Admin. Code tit. 68 ss. 1150, 1380.295 and 1270.58 Illinois code expressly prohibits the use of signatures generated by computers. Illinois requires original signatures only.

Iowa: Professional Engineers and Professional Land Surveyors must use a certification block on original documents. The certification block requires a seal and a signature. A legible rubber stamp or facsimile of a seal may be used. 193C IAC 6.1 (3) (542B) Computer generated seals may be used on final documents. Iowa Professional Engineers and Professional Land Surveyor licensees may affix a handwritten or secure electronic signature to the certification block as long as the signature is protected by a procedure that is, "adequate to (1) verify the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed." 193C IAC 6.9 (542B)

Michigan: Architects, professional engineers, and professional land surveyors may use an embossed seal or a rubber stamp and an original signature only. MICH. ADMIN. Code r.339.15301, 339.16024, and 339.17301

Minnesota: Licensed architects, professional engineers, land surveyors, professional landscape architects, professional geologist, or professional soil scientists may use a seal

on all plans, specifications, plats, and reports and other documents. Minn. R. 1800.4300 (2012) Furthermore, a signature is required for all plans, specifications, plats reports or other documents. The signature may be stamped, handwritten, or electronically created as long as it creates an accurate representation of the licensee's actual signature. Minn. Stats. Ann. § 326.12

Summary of factual data and analytical methodologies:

Both the Engineering Section and the A-E Rules committee reviewed similar rules in other states regarding electronic signatures and seals. Discussions were held regarding how to secure electronic seals and signatures in order to avoid misuse or misrepresentation and how to bring the rules in line with subch. II of chapter 137, Stats. regarding electronic signatures. The Board ensures the accuracy, integrity, objectivity and consistency of the data used in preparing the proposed rule and related analysis.

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

The proposed rule will not have any impact on small business as defined in s. 227.114 (1), Stats.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

TEXT OF RULE

SECTION 1. A-E 2.02 (7) (a) (intro.) is amended to read:

A-E 2.02 (7) (a) All seals or stamps affixed to ~~drawings and plans, drawings, documents, and specifications, and reports~~ to be filed as public documents shall be original. No stickers or ~~electronically scanned images~~ shall be allowed. Seals or stamps may be applied by crimp type, rubber stamp or by electronic means provided the electronic seal or stamp meets the requirements of subch. II of ch. 137, Stats. a security procedure is used, and electronic submissions are permitted by the governmental unit that is to receive the plans, drawings, documents, specifications, and reports.

SECTION 2. A-E 2.02 (7) (a) 1. is created to read:

A-E 2.02 (7) (a) 1. The stamp authorized by the Board must be one of crimp type, rubber stamp type, or computer generated.

SECTION 3. A-E 2.02 (7) (b) (intro.) is amended to read:

A-E 2.02 (7) (b) All seals and stamps on plans, drawings, documents, and specifications, and reports to be filed as public documents shall be signed and dated by the registered professional in one of the following manners:

SECTION 4. A-E 2.02 (7) (b) 2. is amended to read:

A-E 2.02 (7) (b) 2. Utilizing an electronic signature, meeting the requirements of ~~s. 137.06, Stats.~~ subch. II ch. 137, Stats., a security procedure is used and if permitted by the governmental unit that is to receive the plans, drawings, documents, and specifications, and reports. A scanned image of an original signature shall not be used in lieu of an electronic signature with a security procedure as found in s. 137.11 (13), Stats.

SECTION 5. A-E 2.02 (7) (b) 2. (Note) is repealed and recreated to read:

A-E 2.02 (7) (b) 2. (Note) Section 137.11 (13), Stats., of the statutes reads as follows “Security procedure” means a procedure employed for the purpose of verifying that an electronic signature, record or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes identifying words or numbers, encryption, callback, or other acknowledging procedures.”

SECTION 6. 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)
