

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

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS,	:	ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS,	:	ARCHITECTS, PROFESSIONAL
PROFESSIONAL ENGINEERS,	:	ENGINEERS, DESIGNERS,
DESIGNERS, PROFESSIONAL	:	PROFESSIONAL LAND
LAND SURVEYORS, AND REGISTERED	:	SURVEYORS, AND
INTERIOR DESIGNERS	:	REGISTERED INTERIOR
	:	DESIGNERS
	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 24-028)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, Professional Land Surveyors, and Registered Interior Designers to **repeal** A-E 2.02 (7) (a) and A-E 2.02 (7) (b) 2. (Note); to **amend** A-E 2.02 (5), A-E 2.02 (7) (b), A-E 2.02 (8) (a), A-E 2.04, A-E 7.05 (8), A-E 7.08 (3) (i), A-E 7.08 (4) (c), A-E 8.04 (1), (3), and (5), A-E 8.05 (1) (a), (c), and (2), A-E 8.06 (2) and (3), A-E 8.08 (3), A-E 8.10, and A-E 8.11 (intro), (1), (2), and (4); to **repeal and recreate** A-E 2.02 (3) and A-E 2.02 (7) (b) 1. and 2.; and to **create** A-E 2.02 (7) (b) 3. relating to sealing and stamping of documents.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 443.08 (4) (b), 443.11 (1) (b), 443.17, and 443.175, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 443.015 (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. provides that each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

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.”

Section 443.015 (2), Stats. provides that “Each section of the examining board may promulgate rules governing the professional conduct of individuals, firms, partnerships, and corporations registered, permitted, certified, or granted a certificate of authorization by that section.”

Related statute or rule:

None.

Plain language analysis:

This rule provides clarification within code chapters A-E 2, 7, and 8 relating to sealing and signing and eliminates redundant words or sentences that might bring confusion to stakeholders. The words “stamp” or “stamping” are being removed and being replaced with “seal” or “sealing”, where it does not already exist. The rule makes clear that use of electronically applied seals and signatures are allowed. And the rule changes instances where “registrants”, “permit holders”, or “licensees” are used incorrectly, where the correct term is “credential holders”, because that term includes all professions covered by the A-E code.

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

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation provide seal requirement standards for architects [68 Ill. Adm. Code 1150], professional engineers [68 Ill. Adm. Code 1380.295], and professional land surveyors [68 Ill. Adm. Code 1270.58]. Licensed Architects and Professional Engineers must have a reproducible seal, which may be electronically affixed, or, at the licensed professional’s discretion, an original signature in the licensee’s handwriting, a scanned copy of documents bearing an original signature, or a signature generated by a computer.

Land surveyors must have a reproducible seal or facsimile, which may be computer generated, the impression of which shall contain the name of the land surveyor, his or her place of business, the license number of the professional land surveyor, and the words "Professional Land Surveyor, State of Illinois." They may also provide an original signature in the licensee’s handwriting, a scanned copy of the document bearing an original signature, or a signature generated by a computer.

Iowa:

Rules covering seal requirements for architects, engineers, professional land surveyors, and landscape architects are specified by the Iowa Architectural Examining Board [193B IAC 4.6], the Iowa Engineering and Land Surveying Examining Board [193C IAC 6.1(1) to 6.1(9)], and the Iowa Landscape Architectural Examining Board [193D IAC 4.1(7)]. Iowa currently does not have seal requirements for Interior Designers [193G IAC]. Architects, Landscape Architects and Professional Land Surveyors may provide seals presented as a legible rubber stamp, an electronic image or any other facsimile of the seal. The information requested in each information block must be typed or legibly printed in permanent ink or a secure electronic signature which has been defined in Iowa Code section 554D.103(14), which includes digital signature technology.

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs provide seal requirements for architects [Mich Admin Code, R 339.15404], professional engineers [Mich Admin Code, R 339.16031 to R 339.16034], professional surveyors [Mich Admin Code, R 339.17301], and landscape architects [Mich Admin Code, R 339.19041]. In the State of Michigan rules, there are no differences specified between the types of seals or stamps.

Minnesota:

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design provide seal requirements for licensed architects, licensed professional engineers, licensed land surveyors, and licensed landscape architects [Minnesota Rules, part 1800.4300].

Within the State of Minnesota, professional certifications and signatures on plans, drawings, specifications, plats, reports, and other documents may be electronic, or provided via facsimile or digitally. Plans, specifications, plats, reports, and other documents may be stamped with the seal during the life of a licensee's license or certificate holder's certificate if it remains unrevoked, has not expired, or has not been suspended.

Summary of factual data and analytical methodologies:

The proposed rule was developed by conducting a comprehensive review of the provisions of chapters A-E 2, 7, and 8, reviewing professional sealing and signing provisions from surrounding states, and obtaining input and feedback from the Rules Committee of the A-E Board.

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 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 at Jennifer.Garrett@wisconsin.gov or (608) 266-2112.

Agency contact person:

Jake Pelegrin, 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 608-267-0989; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. A-E 2.02 (3) is repealed and recreated to read:

A-E 2.02 (3) The registration seal may be an embossing seal, an ink stamp seal, a digitally printed seal, or digitally embedded seal in an electronic file.

SECTION 2. A-E 2.02 (5) is amended to read:

A-E 2.02 (5) If more than one sheet is bound together in a volume, the ~~registrant or permit~~ credential holder who prepared or directed and controlled the preparation of the volume, may sign, seal and date only the title or index sheet if the signed sheet identifies clearly all other sheets comprising the bound volume and if any other sheets which are prepared by or under the direction and control of another ~~registrant or permit~~ credential holder are signed, sealed and dated by the other ~~registrant or permit~~ credential holder.

SECTION 3. A-E 2.02 (7) (a) is repealed.

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

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

SECTION 5. A-E 2.02 (7) (b) 1. and 2. are repealed and recreated to read:

A-E 2.02 (7) (b) 1. Physical placement of a seal and a handwritten signature in permanent ink containing the name of the credential holder and date.

2. Digital placement of a seal and a handwritten signature in permanent ink containing the name of the credential holder and date.

SECTION 6. A-E 2.02 (7) (b) 2. (Note) is repealed.

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

A-E 2.02 (7) (b) 3. Digital placement of a seal and an electronic signature containing the name of the credential holder and date.

SECTION 8. A-E 2.02 (8) (a) is amended to read:

A-E 2.02 (8) (a) The plans, specifications and calculations shall have been prepared by or under the supervision of an architect or professional engineer licensed in some state of the United States, and shall bear the ~~signature and seal or stamp~~ and signature of the architect or professional engineer who prepared them or under whose supervision and control they were prepared.

SECTION 9. A-E 2.04 is amended to read:

A-E 2.04 Change of address. Every ~~registrant or permit~~ credential holder shall notify the board in writing of a change of address within 30 days of the change. The notice shall include the person's or firm's former and new addresses and each ~~registration or permit~~ credential number held.

SECTION 10. A-E 7.05 (8) is amended to read:

A-E 7.05 (8) The map shall bear the ~~stamp or seal~~, name, and address, and signature of the professional land surveyor under whose direction and control the property survey was made with a statement certifying that the property survey complies with this chapter and is correct to the best of the professional land surveyor's knowledge and belief.

SECTION 11. A-E 7.08 (3) (i) is amended to read:

A-E 7.08 (3) (i) The ~~stamp and signature or seal~~ and signature of the professional land surveyor under whose direction and control the corner location was determined and a statement certifying that the U.S. public land survey monument record is correct and complete to the best of the professional land surveyor's knowledge and belief.

SECTION 12. A-E 7.08 (4) (c) is amended to read:

A-E 7.08 (4) (c) The ~~stamp and signature~~ or seal and signature of the professional land surveyor under whose direction and control the corner location was determined or witness monument established.

SECTION 13. A-E 8.04 (1), (3), and (5) are amended to read:

A-E 8.04 (1) Shall accurately and truthfully represent to a prospective client or employer the capabilities and qualifications which the ~~registrant or licensee~~ credential holder has to perform the services to be rendered.

(3) May not offer to perform, nor perform, services which the ~~registrant or licensee~~ credential holder is not qualified to perform by education or experience without retaining the services of another who is qualified.

(5) May not misrepresent the extent to which the performance of services will involve a partnership or association with another ~~registrant or licensee~~ credential holder or misrepresent the identity of a ~~registrant or licensee~~ credential holder with whom a partnership or association will be engaged in for the performance of services.

SECTION 14. A-E 8.05 (1) (a), (c), and (2) are amended to read:

A-E 8.05 (1) (a) Shall avoid conflicts of interest. If an unavoidable conflict of interest arises, the ~~registrant or licensee~~ credential holder shall immediately inform the client or employer of all the circumstances which may interfere with or impair the ~~registrant's or licensee's~~ credential holder's obligation to provide professional services. Under these circumstances a ~~registrant or licensee~~ credential holder may not proceed to provide professional services without the full approval and consent of the client or employer.

(c) May not agree to perform professional services for a client or employer if the ~~registrant or licensee~~ credential holder has a significant financial or other interest which would impair or interfere with the ~~registrant's or licensee's~~ credential holder's responsibility to faithfully discharge professional services on behalf of the client or employer.

(2) Nothing in these rules limits a ~~registrant's or a licensee's~~ credential holder's professional responsibility to an owner of a project when the ~~registrant or licensee~~ credential holder is employed by a person or firm under contract to construct and furnish design services for that project.

SECTION 15. A-E 8.06 (2) and (3) are amended to read:

A-E 8.06 (2) May not evade the professional or contractual responsibility which the ~~registrant or licensee~~ credential holder has to a client or employer.

(3) May not enter into an agreement which provides that a person not legally and actually qualified to perform professional services has control over the ~~registrant's or licensee's~~ credential holder's judgment as related to public health, safety or welfare.

SECTION 16. A-E 8.08 (3) is amended to read:

A-E 8.08 (3) Shall respond in a timely manner to a request by the board, a section of the board or the department for information in conjunction with an investigation of a complaint filed against a ~~registrant or licensee~~ credential holder. There is a rebuttable presumption that a ~~registrant or licensee~~ credential holder who takes longer than 30 days to respond to a request for information has not acted in a timely manner.

SECTION 17. A-E 8.10 is amended to read:

A-E 8.10 Plan ~~stamping~~ sealing.

A-E 8.10 (1) No architect, landscape architect, professional engineer or designer may ~~sign, seal or stamp~~ and sign any plans, drawings, documents, specifications or reports for architectural, landscape architectural, professional engineering or design practice which are not prepared by the ~~registrant~~ credential holder or under his or her personal direction and control.

A-E 8.10 (2) No professional land surveyor may ~~sign, seal or stamp~~ and sign any maps, plats, charts, or reports for professional land surveying practice which are not prepared by the professional land surveyor or under his or her personal direction and control.

A-E 8.10 (3) No architect, landscape architect, professional engineer, designer or professional land surveyor shall allow work performed by him or her or under his or her personal direction and control to be ~~signed, sealed or stamped~~ and signed by another except that an architect, landscape architect, professional engineer, designer or professional land surveyor working under the personal direction and control of another ~~registrant or licensee~~ credential holder may allow that ~~registrant or licensee~~ credential holder to ~~sign and seal or stamp~~ and sign the work.

SECTION 18. A-E 8.11 (intro), (1), (2), and (4) are amended to read:

A-E 8.11 Suspension of ~~registration~~ credential; effect. Any ~~registrant or licensee~~ credential holder whose ~~registration or license~~ credential has been suspended is prohibited during the term of the suspension from engaging in any of the following:

(1) Offering to perform any service which requires ~~registration or licensure~~ a credential.

(2) Performing any professional service which requires ~~registration or licensure~~ a credential.

(4) Entering into contracts the performance of which require ~~registration or licensure~~ a credential.

SECTION 19. 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, Professional Land Surveyors, and Registered Interior Designers is approved for submission to the Governor and the Legislature.

Dated _____

Chairperson
A-E Rules Committee