

November 15, 2019

Anonymous Request

Policy Advisory Request No. 52

Re: Formal Response to Request for Policy Advisory Request Regarding Ability of a Petrochemical Company to Waive the Sealing Requirement for Engineering Documents Prepared by An Engineering Consultant;

The Texas Board of Professional Engineers and Land Surveyors (Board) met in public session on November 14, 2019, and approved this response to the anonymous request, dated July 29, 2019.

Request:

You seek guidance on the following issue:

Can the owner of a petrochemical company building a facility in Texas waive the sealing requirement for engineering documents, prepared by an engineering company, to be used to build that facility?

Response:

The Policy Advisory Opinion process allows the Board to issue interpretations of the Texas Engineering Practice Act (the Act) and Board Rules to address specific questions. The committee reviewed this request and determined that it can be answered by reference to the existing language of a statute or Board rule and does not need to go through the full Policy Advisory process.

Please note, this request is very similar to existing Policy Advisory Request No. 46 which can be found on the Board's website.

The Act does not contemplate waivers to sealing requirements, but does discuss exemptions under Subchapter B. An outside entity or consultant, hired by a petrochemical company to provide engineering services to the petrochemical company, would not qualify for any of the exemptions detailed in Subchapter B of the Act. Therefore, the individual providing the engineering services on behalf of the entity or consultant would need to be a licensed professional engineer and the outside entity or consultant would need to be a registered firm.

Further, §1001.401(b) of the Act, relating to Use of Seal, states, "A plan, specification, plat or report issued by a license holder for a project to be constructed or used in this state must include the license holder's seal placed on the document."

For reference, Section 1001.401 is included below:

§ 1001.401. Use of Seal

- (a) On receiving a license, a license holder shall obtain a seal in a design authorized by the board, showing the license holder's name and the legend "Licensed Professional Engineer" or "Registered Professional Engineer."
- (b) A plan, specification, plat, or report issued by a license holder for a project to be constructed or used in this state must include the license holder's seal placed on the document. A license holder is not required to use a seal required by this section if the project is to be constructed or used in another state or country.
- (c) A person may not place a seal on a document if the license of the license holder named on the seal has expired or has been suspended or revoked.
- (d) A license holder is not required to use a seal under this section for a project for which the license holder is not required to hold a license under an exemption provided by Subchapter B.
- (e) A license holder shall not be required to provide or hold any additional certification, other than a license issued under this chapter, to seal an engineering plan, specification, plat, or report.

Therefore, a third-party engineer preparing engineering plans for a client or owner, including a petrochemical company, must seal the plans. It is not permissible for any client or owner to waive the sealing requirements for engineering documents and failure to seal engineering documents is a violation of the Act.

Conclusion:

No new Policy Advisory Opinion will be developed for this request.