

January 23, 2018

John C. Ringler
104 East Tyler St., Suite 600
Longview, TX 75601

RE: Formal Response to request for Policy Advisory Request Regarding preliminary and electronic documents

Dear Mr. Ringler:

The Texas Board of Professional Engineers (Board) met in public session on November 16, 2017 and directed staff to develop this response to your request, dated November 2, 2017.

Request:

Section 137.33 Sealing Procedures includes paragraph (e) related to preliminary documents stating that the preliminary caveat be placed on the title sheet of bound engineering reports, specifications, details, calculations or estimates, and each sheet of plans. Paragraph 137.33 (e) lists specific items and does not include using the preliminary document caveat on electronic files. Paragraph (l) states that an engineer may securely transmit his or her final version of engineering work electronically. 137.33 (l) does not address the transfer of preliminary documents electronically.

1. Can electronic files be marked preliminary with the caveat?
2. If electronic preliminary documents are allowed, are preliminary documents marked with the caveat required to have the same "reasonable security" measures used for final, sealed electronic documents?
3. Can unsecured, unsealed, editable, electronic documents without the preliminary document caveat or firm registration number be transmitted along with the properly marked, secured preliminary electronic files?
4. Can unsecured, unsealed, editable, electronic documents without the seal, signature, or firm registration number be transmitted along with the properly secured, final version of the engineering work?
5. Can unsecured, unsealed, editable, electronic documents without the preliminary document caveat, seal and signature, or firm registration number be transmitted electronically after the "work" is complete?

Response:

The Policy Advisory Opinion process allows the Board to issue interpretations of the Texas Engineering Practice 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 Policy Advisory process.

The Texas Engineering Practice Act establishes practice requirements for engineers in the state of Texas including general guidelines for how to handle preliminary documents and electronic seals, but does not set specific standards or technological requirements. Historically, the Acts and Rules dealt exclusively with paper and ink documents. The rules also allow engineers in Texas to use electronic seals and signatures on electronic documents. All of the rules, expectations, and security that apply to a paper and ink version of an engineering document are also applied to electronic engineering documents. The engineer of record is ultimately responsible for the use of his or her seal in any and all forms or media. With that framework in mind, below are answers to the questions raised:

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1. Preliminary documents must be marked as Preliminary using the standard caveat wording in Board Rule 137.33. This applies to electronic documents as well as paper and ink documents.
2. Yes. Specific security methods for Preliminary and/or Final documents are not outlined or required by rule, although taking precautions to prevent theft or forgery are strongly encouraged. As stated above, the expectations would be the same for electronic and traditional paper and ink Preliminary and/or Final documents.
3. As with paper and ink engineering documents, there are some circumstances where an engineer may release an unofficial copy to a client. This is only acceptable if there is an official sealed (or caveated) document on file or in the records.
4. Same answer as #3 above.
5. Same answer as #3 above.

Conclusion:

No new Policy Advisory Opinion will be developed for this request. The Board will investigate any substantiated complaints filed against an individual Texas PE not following Board Rule 137.33.

Thank you for your support of the policy advisory opinion process. If you have any questions, please contact Mr. David Howell, P.E. at (512) 440-7723.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance Kinney". The signature is fluid and cursive, with a large initial "L" and "K".

Lance Kinney, P.E.
Executive Director

LK:DLH:asm