

**Texas Board of Professional Engineers and Land Surveyors
Policy Advisory Opinion Committee Meeting Minutes
1917 S. Interstate 35
Austin, TX 78745
February 16, 2023
9:00 am-10:00 am Central Time**

1. Preliminary Matters (Ademola Adejokun, P.E., Chair)

A. Call to Order

Mr. Ademola Adejokun, P.E., Chair, called the Policy Advisory Opinion Committee meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 9:00 a.m. at the Texas Board of Professional Engineers and Land Surveyors at 1917 S. Interstate 35, Austin, TX. (NOTE: all votes are unanimous unless noted.)

B. Roll Call

Ms. Boddan called the roll. It was noted for the record that a quorum was present.

The following Committee members were present:

Ademola Adejokun, P.E.	Chair
Karen Friese, P.E.	Member
Catherine Norwood, P.E.	Alternate Member
Rolando Rubiano, P.E.	Member

Melissa Juarez, Assistant Attorney General and General Counsel for the Board was present to provide legal counsel to the Board.

The following staff members were present:

Lance Kinney, Ph.D., P.E.	Executive Director
Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Elissa Mazza	Staff Attorney
Mason Schoolfield	Director of Operations
Ed Brannan, P.E.	Technical Engineering Specialist
Cristabel Boddan	Executive Assistant

C. Excuse absent Committee members

The following Committee member was absent:

Kiran Shah

Member

It was MOVED/SECONDED (Adejokun/Rubiano) to excuse Mr. Shah from the Policy Advisory Opinion Committee meeting. A vote was taken and the MOTION PASSED.

D. Welcome Visitors

Steven J. Freeman, R.P.L.S., Texas Society of Professional Surveyors; Jon Hodde, R.P.L.S., Advisory Member; Coleen Johnson, R.P.L.S., Board Member; and Mark Neugebauer, R.P.L.S., L.S.L.S., Board Member, were present.

E. Public Comment

There were no public comments.

2. November 17, 2022 Policy Advisory Opinion Committee Meeting Minutes

It was MOVED/SECONDED (Norwood/Friese) to approve the November 17, 2022, Policy Advisory Opinion Committee meeting minutes as presented. A vote was taken and the MOTION PASSED.

3. Policy Advisory Opinion Request Regarding Mechanical Equipment Procurement, Repair, and Replacement (Policy Advisory Opinion Request No. 62)

Mr. Sims discussed Policy Advisory Request No. 62 regarding mechanical equipment procurement, repair, and replacement.

Mr. Sims stated that this request was received from Mr. Zappi on November 22, 2022. Mr. Zappi is inquiring about the repair and replacement of in-kind mechanical equipment specifically at public water and wastewater utilities and if such activities fall under the definition of the practice of engineering.

Mr. Sims stated that while the request appears focused on public work facilities, the response is universal to all mechanical equipment. Specifically, Section 1001.055 of the Texas Engineering Practice Act addresses mechanical, electrical or other equipment. The section exempts a person from being licensed if they are installing, operating, repairing, or servicing mechanical equipment.

Mr. Sims stated that while the Act does not define in-kind replacement, the Board has historically held that the repair or replacement of mechanical equipment was substantially equivalent equipment falls under the service and installation

exemption found in section 1001.055. Substantially equivalent is also not clearly defined but if the equipment serves an equivalent purpose and does not necessitate any design changes to the overall system, the Board has held that it would qualify for this exemption and not require an engineer. However, if the change does require design updates to the system, such updates would qualify as the practice of engineering and would need to be done by a Professional Engineer.

In conclusion, Mr. Sims stated that the Act adequately addresses the questions and an official policy advisory opinion is not needed for this request.

Mr. Sims has prepared a draft response letter to Mr. Zappi and made one update provided to the Committee for their review.

Mr. Sims recommends the Committee recommend to the full Board to approve the letter.

It was MOVED/SECONDED (Norwood/Friese) to accept the draft response and recommend to the full Board to adopt the response to Policy Advisory Request No. 62 regarding mechanical equipment procurement, repair, and replacement. A vote was taken and the MOTION PASSED.

4. Policy Advisory Opinion Request Regarding Signing and Sealing Certain Tests That Private Associations Require Certification to Issue (Policy Advisory Opinion Request No. 63)

Mr. Sims discussed Policy Advisory Request No. 63 regarding signing and sealing certain tests that private associations require certification to issue.

Mr. Sims stated that the request was submitted by Mr. Ryan Edwards, P.E., on December 21, 2022. Mr. Edwards seeks guidance on if a professional engineer can review and subsequently sign and seal test data as a professional engineer only if certain private trade associations require certification through them to run and/or report on test results.

Mr. Sims stated that if the test results involve engineering knowledge and the engineer is competent in the area associated with the testing, he/she can sign and seal the test without holding a certification from the trade association. Section 1001.401(e) of the Act states a license holder shall not be required to provide or hold any additional certification other than the license issued under this chapter which would require a Professional Engineer license to seal an engineering plan or specification.

Mr. Sims stated that it is important to note that Board rule 137.59(a) also requires and limits an engineer to only sign and seal work that is within areas of engineering in which that individual is competent. As such, the engineer would not be violating the Act or board rules if they signed and sealed an engineering report involving an area of engineering in which they were competent without holding a certification from any private trade organization.

Mr. Sims stated that it is worth noting any issues between the engineer and the trader organization about the engineer certifying a report with the trade organization certification would be outside the jurisdiction of the Board.

In conclusion, Mr. Sims believes the Act and Board rules adequately address this question and an official policy advisory opinion is not needed.

Mr. Sims prepared a draft response letter to Mr. Edwards and provided a copy to the Committee for their review.

Mr. Sims recommends the Committee recommend the proposed response to the full Board for approval.

It was MOVED/SECONDED (Rubiano/Friese) to accept the draft response and recommend to the full Board to adopt the response to Policy Advisory Request No. 63 regarding signing and sealing certain tests that private associations require certification to issue.

5. Future Committee Meetings: Agenda items, dates, locations, and other arrangements

No issues were presented or addressed for consideration at the next Committee meeting.

6. Adjourn

It was MOVED/SECONDED (Friese/Norwood) to adjourn the meeting at 9:18 a.m. A vote was taken and the MOTION PASSED.

Date Board approved minutes:

May 11, 2023