



Practice Standard for
Authenticating Professional
Documents
v3.1

January 2013

The Association of Professional
Engineers and Geoscientists of Alberta

**Practice Standard for
Authenticating Professional Documents**

FOREWORD

APEGA publishes practice standards and guidelines for the purpose of educating its members and the public about matters of professional practice. Practice standards and guidelines are not intended to be short courses in engineering or geoscience. In general, these documents are produced to meet the following objectives:

- To assist APEGA members in performing their professional role in accordance with the *Engineering and Geoscience Professions Act* and the *Engineering and Geoscience Professions Regulation* under the act.
- To help the public understand the role of APEGA members and the responsibilities members have when performing their professional services.

This practice standard is a revision of the previous document published in April 2002. Although the regulatory requirements regarding authentication of professional documents have not changed, the revised practice standard provides additional information on stamping procedures and management of engineering and geoscience documents.

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1. OVERVIEW

The *Engineering and Geoscience Professions Act* and the *Engineering and Geoscience Professions Regulation* under the Act govern the practice of engineering and geoscience in the province of Alberta. APEGA is the authority that administers that legislation, including matters concerning the use of professional members' stamps.

Essentially, Alberta law requires every professional member who performs a task that is within the practice of engineering or geoscience to authenticate (stamp, sign and date) all final documents prepared or reviewed by the member as part of that task before the documents are issued. The requirement applies equally to an employee working for an employer or to a consultant working for a client.

The stamp and signature signify that a licensed professional member of APEGA has accepted responsibility for the engineering or geoscience work represented in the authenticated document. A stamp is only issued to an individual who is qualified to practice engineering or geoscience in some capacity. The stamp is not a warranty or a guarantee of accuracy, however.

Other pieces of legislation (e.g., acts, regulations, codes, etc.) in addition to the EGP Act also require certain documents to be authenticated. Client and contractual requirements for authentication of documents are to be consistent with the regulatory requirements for authentication. No one can request a professional member's stamp on a document where there is no regulatory requirement for the stamp. The resolution of any disputes falls within APEGA's jurisdiction.

1.1 Scope

This is a standard of practice for use of the professional stamp when authenticating engineering and geoscience documents. The procedures outlined apply equally to documents that are prepared by employee professionals for use by their employers "in house" and to documents that are prepared by professional members or permit holders for use by external parties.

1.2 Purpose

This standard is meant to assist professional members in complying with the statutory requirements for authenticating professional documents. It is also intended to provide guidance concerning proper use of the stamp and advice on matters related to handling professional documents, such as revisions, storage, transmittal, etc.

1.3 Definitions

For the purposes of this standard, the following terms and definitions apply.

Act

The *Engineering and Geoscience Professions Act* .

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Association

The Association of Professional Engineers, Geologists and Geophysicists of Alberta (APEGA).

As-built or as-acquired document

A document that reflects the installed, fabricated, constructed or commissioned condition of an item or project based on information provided by another party and not verified by the professional member. In the geophysical community, such documents are referred to as “as-acquired”, e.g., an as-acquired realignment of a seismic line.

Authentication

Application of the professional member's stamp, signature and date.

Discipline

A specific field of practice within a profession, e.g., electrical engineering, mechanical engineering, etc.

Engineering document

A document that expresses engineering work, typically as a result of an analysis or design process, e.g., engineering drawings; specifications and design requirements; instructions; design notes and calculations; reports based on engineering judgment that document recommendations, opinions, evaluations, certifications, condition assessments, analysis or verifications.

Final document

A professional document issued to another person on which that person is permitted to rely, for the intended purpose of that document, e.g., a tender document might not be complete for construction purposes, but it is final for tender purposes. Documents provided for review or comments are not considered to be final documents.

Geoscience document

A document that expresses geological or geophysical work, typically as a result of an interpretation, analysis or design process, such as seismic programs, maps, cross-sections and reports.

Integrity (of professional documents)

The ability to verify that the information contained in the document has not been changed since the document was authenticated, and that the medium used provides stability and the required longevity to the information.

Issued (or issuing)

Issuing a document means providing a document that a professional member has stamped and signed (authenticated) directly. For the purposes of interpreting this practice standard, providing someone with a copy of an authenticated document is not considered to be issuing the document.

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Permit holder

A partnership or other association of persons or a corporation that holds a permit under the *Engineering and Geoscience Professions Act*.

Permit number

The number issued by the Association to a permit holder entitled to engage in the practice of engineering or geoscience.

Person

A corporation, company, association, firm, partnership, society, or other organization, as well as an individual.

Professional document

An engineering document or a geoscience document in any form or medium (e.g., paper, mylar, electronic, etc.), Referred to in the Act and Regulations as “document of a professional nature.”

Professional member

A professional engineer, professional geologist, professional geophysicist, professional licensee (engineering), professional licensee (geological), professional licensee (geophysical) or licensee entitled to engage in the practice of engineering or geoscience under the Act.

Record drawing/document

A professional document prepared by the professional member to record design changes to an initial design for which he or she has accepted responsibility and which represents the final design of the project. Typically issued or retained as verification that on-site conditions are in accordance with the final design.

Regulations

Engineering and Geoscience Professions Regulation

Stamp

The stamp issued by the Association to a professional member, in the form of a rubber stamp, an embossing seal or an electronic file.

2. PROFESSIONAL RESPONSIBILITIES AND LIABILITY

2.1 Professional member's responsibility

A professional member is responsible for practicing in accordance with the Act, Regulations and the *Code of Ethics*.

A professional member shall only apply his or her stamp to professional documents he or she has prepared or to professional documents that were prepared under his or her supervision and control. In the case of professional documents prepared by someone

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else, a professional member shall only apply his or her stamp to the documents after thoroughly reviewing the documents and accepting professional responsibility for them.

A professional member is responsible for maintaining custody and control of his or her stamp at all times. The professional member shall apply the stamp personally or he or she may allow the stamp to be applied by a person acting under his or her direct control.

A professional member shall personally sign the documents to which his or her stamp has been applied.

Someone who fails to authenticate a final document that he or she prepares and issues, or someone who authenticates and issues a document prepared by another person without performing a thorough review, is in violation of the Act and Regulations and the *Code of Ethics*.

A professional member shall only use the stamp while registered with the Association and while having the right to practice. A professional member shall return the stamp to the Association when required to do so.

2.2 Permit holder's responsibility

A permit holder is corporately responsible for the integrity of its projects. A permit holder is responsible for putting in place a system that enables professional practice to be carried out by professionals having the training and experience in the fields of the profession contained in the document. The organization is responsible for putting sufficient quality control procedures in place to preclude errors or omissions in the technical content of a professional document so that the result is a complete and accurate document. A permit holder is responsible for carrying out its business in accordance with the *APEGA Code of Ethics*.

A more extensive discussion of the responsibilities of professional members (permit holders and individuals) is contained in APEGA's *Professional Practice - A Guideline*.

2.3 Liability

Liability is a legal responsibility for some harm or loss caused to another person. APEGA has no authority to determine legal liability. The jurisdiction to resolve disputes concerning liability rests with the courts. Not authenticating a professional document does not relieve a professional member from any legal liability that might arise as a result of the work contained in a document that the professional member prepared and issued. A court could find a professional member, a permit-holding employer, or both, liable whether or not such a document was authenticated. Authentication merely serves as a means to identify the professional member who accepted responsibility for the document.

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3. AUTHENTICATION PROCESS

3.1 Professional stamps

Authentication of a professional document shall consist of applying the professional member's stamp to the document, signing the document and indicating the date when the document was stamped. The Act and Regulations do not provide for any other form of authentication. A document showing only a phrase such as, "Original stamped by ____" is not an authenticated document.

The member's signature should appear beside or across the stamp without obscuring the member's name.

The date should appear below the stamp and shall be in a format that is not ambiguous. For example, 10-12-11 is ambiguous, as is 09-08-2011.

3.2 Permit numbers

The Regulations also require that when a permit holder is carrying on the practice of engineering or geoscience, professional documents shall also show the permit number issued by the Association to the permit holder (section 49).

The permit number should appear in the proximity of the professional member's stamp. For example, it may be part of a title block on a drawing, map or cross-section. The significance of the number should be obvious. Someone unfamiliar with the professions would not necessarily interpret "P1234", by itself, as a permit number. The number should be accompanied by words such as "APEGA Permit" or "APEGA Permit to Practice". No signature is required to accompany the permit number.

Where two or more permit holders produce different components of the same document, all permit numbers shall appear on the document.

The presence of a permit number indicates that the permit holder is registered and entitled to engage in the practice of engineering or geoscience.

Permit numbers are not required on documents issued by professional members who are self-employed, i.e., who do not "belong" to a permit holder.

Note: The Regulations no longer require the APEGA permit stamp to be applied to professional documents, only a permit number. The permit stamp may still be used as a means of applying the permit number, however. Permit holders may employ the permit stamp as a means of quality control, if they wish.

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3.3 Professional documents requiring authentication

Documents destined for outside Alberta

Professional members practicing in Alberta occasionally prepare final documents for use outside Alberta. Strictly speaking, all such documents must be authenticated, in accordance with the Regulations, since the practice of engineering or geoscience takes place in Alberta.

However, jurisdictions outside Alberta may have authentication requirements of their own and Alberta authentication is not recognized (e.g., other provinces in Canada and foreign countries). In such cases, if a professional member applies a professional stamp that he or she obtained from the jurisdiction where the documents will be used, then the APEGA stamp and permit number do not need to be applied. If the jurisdiction has no authentication requirements, then the APEGA authentication should be applied.

What to stamp

The Regulations require a professional member to authenticate all final documents of a professional nature that he or she has prepared or reviewed (section 54) or reproductions or copies of the documents (sections 3, 6 and 8 of the Act). A professional member's authentication indicates that he or she has accepted professional responsibility for the documents.

The Act and Regulations refer specifically to several kinds of documents that require authentication, including: a plan, drawing, detail drawing, map, geological cross-section, geophysical cross-section, specification, report or other document or a reproduction of any of them (sections 3, 6 and 8 of the Act and section 54 of the Regulations).

“Final” means a document that is intended to be relied on by others. “Final” also means “final for the purposes intended.” For example, engineering drawings submitted for the purpose of obtaining permits or approvals might not contain all the details required for construction, but those drawings are considered final for approval purposes and must be authenticated, with a clear indication of their restricted purpose.

The content of a document determines whether it is a professional document. An engineering document is a document that expresses engineering work carried out by a professional member who is licensed to practice engineering. Geological and geophysical documents are defined similarly.

The Regulations do not differentiate between documents prepared by a consultant for a client and those prepared by employee professionals for use internally by their employer.

Forms for government or regulatory authorities that specifically require a professional's stamp (e.g., schedules under the *Alberta Building Code*) shall also be authenticated.

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What not to stamp

Professional documents that are provided to someone only for review and comment (drafts) are not considered to be final and should not be stamped. When the review is completed and the decision is made as to the content of the document that will be issued, the document will then require authentication.

Documents that do not contain work of a professional nature should not be authenticated (e.g., contracts, checklists, cost estimates, construction schedules, progress claims, payment verifications, correspondence, brochures, etc.).

Occasionally, legislation other than the EGP Act requires that a task be done by certain qualified persons that are specified in the legislation. Where they are included with persons from other occupations, engineers or geoscientists should not stamp any documents required by the legislation unless the work is clearly of a professional nature (i.e., engineering or geoscience).

Documents that reflect the installed, fabricated, constructed or commissioned condition of an item or project based on information provided by another party, and that has not been verified by the professional member, should not be authenticated. This practice standard defines such documents in the engineering profession as “as-built” drawings. In the geophysical community, such documents are commonly referred to as “as-acquired”, e.g., an as-acquired realignment of a seismic line.

Technical journal articles, conference papers, magazine articles, slide presentations, etc., are considered to be informative pieces prepared for general information. They are not considered to be final documents on which someone would be expected to take action. Such items should not be authenticated.

3.4 Authentication procedures

Single Discipline Documents

In the strictest sense, the Regulations could be interpreted as requiring all professional members who jointly prepare a document to each authenticate the document. Where a professional document has been prepared by more than one professional member in the same discipline, it may be authenticated by each of them, although this is not a requirement. The document shall be authenticated by at least one professional member, preferably the individual responsible for coordinating the work of the team, or by the supervisory individual if he or she was sufficiently involved in overseeing the work.

The decision as to who will authenticate a professional document should be made prior to any work on its preparation.

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Multi-Discipline Documents

A professional document that contains components that have been prepared or reviewed by professional members of different disciplines shall be authenticated by a professional member who is able to accept responsibility for the work related to each of those disciplines. The responsibility of each professional member who authenticates the document should be clearly indicated on the document.

As-built and record engineering drawings

As-built drawings, as defined here, are drawings that have been prepared or marked up by someone other than the authoring engineer, e.g., a contractor or other persons not under the direct supervision and control of the engineer. The drawings are intended to represent the on-site conditions that are not shown on the original drawings. Changes to the engineer's design may have been initiated by someone else to accommodate site conditions. If the engineer is not in a position to accept responsibility for the content of as-built drawings, they should not be authenticated.

Recognizing that the Regulations allow a professional member to stamp a drawing or other document prepared by another person, if the engineer is in a position to "thoroughly review" the changes and accept responsibility for them, the engineer may stamp the marked-up as-built drawing as being representative of actual on-site conditions if he or she has verified that is the case.

Record drawings, as defined here, are drawings prepared by the engineer to record design changes for which he or she has accepted responsibility. The changes may have been made by the engineer previously through authenticated change orders, directives, etc., and those changes are subsequently being incorporated into one representative drawing along with the original design elements, representing the final design for the project. Since the engineer is responsible for the content of record drawings, he or she is required to authenticate them.

If the record drawings are being used as a means to verify that construction has been done in accordance with the design, the engineer will have had to have spent a sufficient amount of time on site (frequent visits or continuous presence) before being able to provide such an assurance. The engineer should determine in advance whether the client requires such verification.

As-acquired documents

Typically used in reference to geoscience documents such as seismic programs, as-acquired information is another party's representation of what occurred in the field. Geoscientists should not stamp as-acquired documents, e.g., a realignment of a seismic line by a geophysical contractor from that initially laid out by a geophysicist. If the geophysicist can verify the realignment and is willing to accept responsibility for the realignment and record that, he or she can issue an authenticated record document.

Change orders, directives, field instructions

Recognizing that such changes could be small, numerous or issued verbally, change orders, field instructions, etc. that affect the design in an authenticated document must

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be authenticated prior to being implemented, but if that is not reasonable or practical, then the changes should be clearly communicated, documented and then authenticated in a timely fashion.

Timely fashion will need to be interpreted in the context of the particular work being done. For example, the effects of several email instructions could be incorporated into an authenticated drawing during a subsequent design drawing revision or preparation of a record drawing.

Design Notes, Calculations and Geoscience Interpretations

Design notes, calculations or geoscience interpretations (e.g. cross-sections, stratigraphic interpretations, etc.) are usually considered to be the property of the professional member for his or her own use. If the design notes, calculations or interpretations are issued to another person, either in accordance with the scope of the project or by agreement, the cover, title or signature sheet shall be authenticated in a manner that clearly indicates acceptance of professional responsibility for the notes or calculations without needing to authenticate each page. Design notes and calculations should be prepared in a format which records the names of the responsible professional members, designers and checkers and the dates on which their work was performed. Calculations and design notes that are kept as part of the member's work file for his or her reference do not need to be authenticated.

Engineering Testing Laboratory Reports

Reports issued by testing laboratories prepared by or under the supervision of a professional member as appropriate shall be authenticated by him or her whenever such reports go beyond the tabulation of test data (e.g., composition of material, breaking stress, etc.) and proceed to:

- Interpret the data to draw conclusions as to the characteristics of the material or device, or parts thereof.
- Express engineering judgment in the form of recommendations derived from the results of the test.
- Present design work in the form of plans, specifications, and other instruments involving the practice of engineering.

Geoscience Documents Requiring Authentication (examples)

Note: Transitory interpretations which are subject to review and frequent modification, used internally within an organization, would not be considered to be final documents requiring authentication.

Resource or reserve reports

Final reports (of any kind or length) based on geoscience judgment, documenting recommendations, opinions, evaluations, certifications, condition assessments, analysis or verification.

Maps

Final maps that represent geoscience interpretation such as, but not limited to, isopach/isocore maps, pore volume estimate maps, structure contour maps,

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stratigraphic interpretations, surficial geology maps, bedrock maps and resource or reserve distribution maps of any kind including derived information, e.g., structural depth equivalent, predicted porosity, lithology, etc. Maps shall be individually authenticated if they are not part of a bound report.

Final Drilling programs/prognoses or completion plans

Including assessment of potential lost circulation zones, high pressure zones, high acid content, etc.

Seismic programs

Including changes to such programs, field survey design documents, design assumptions, data processing parameters

Mine plans

Oilsands, coal mining, including reclamation plans.

Manuals

Manuals based on engineering or geoscience work prepared for direction and guidance of others shall be authenticated using the same principles of quality control and professional responsibility as apply to other professional documents.

Preliminary documents

Preliminary documents that are issued for some restricted purpose where someone may rely on those documents shall be authenticated. The documents shall include a notation clearly identifying their intended purposes or limitations, e.g., "not for construction", "for tender purposes only", "for budget purposes only", "for site planning only", as appropriate.

Reports

A report of any size or format shall be authenticated by authenticating the cover, title or signature sheet without having to authenticate each page.

Reviewed Documents

The Regulations allow a professional member to authenticate a document representing engineering or geoscience work that was prepared by another person. Before applying his or her stamp and signature to the document, the professional member is required to thoroughly review the document, performing sufficient checks, calculations, research or other work that will enable the professional member to accept responsibility for the document.

The professional member's authentication will be regarded in the same manner as if he or she was the original author. The professional member should describe, either in notes or attached documents, the extent of the review.

Revisions

Authenticated documents occasionally need to be revised during the course of a project or as part of a new project. Revising a professional document constitutes professional

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practice. To ensure that professional members are not unknowingly accepting responsibility for work they did not do, it is important that documents, once authenticated, are not modified without undergoing an appropriate revision process.

A professional document that has been revised shall be authenticated in a manner that clearly indicates the revising professional member's acceptance of responsibility for the revisions and the effects of those revisions. Care should be taken in documenting the revisions to clearly identify the boundary of professional responsibility between the original and revised documents.

When revision of a document authenticated by another professional member is required for an ongoing project, the original authenticated document should be retained. The professional member revising the document should apply his or her stamp and signature to the revision, clearly identifying the changes and who is responsible for them.

When revision of a document (particularly a drawing) authenticated by another professional member for a completed project is required for a new project, the following procedure should be used: The document used as the basis of the new work should be clearly identified by a note, drawing method (e.g. lighter or ghosted lines) or an identifying mark as work previously done by others; the original stamp and signature should not appear; the professional member revising the document should add his or her stamp and signature, clearly identifying the revisions and who is responsible for them.

Sets of plans, drawings, detailed drawings

Each drawing which is in a set of plans or drawings, and which can be used individually for its intended purpose, shall be authenticated.

Shop or Fabricator drawings

Several kinds of drawings might be referred to as shop drawings or fabricator drawings. The fabricator commonly prepares such drawings after he or she reviews the drawings and specifications supplied by a professional member. Authentication requirements are as follows:

Fabricator general arrangement drawings

Drawings that specifically describe the location of structural members, connections and components to be supplied by the fabricator, and that may be reproducible copies of the drawings provided by a professional member on which the fabricator's information is noted, are not considered to be design drawings and therefore do not require authentication.

Fabricator detail drawings

Drawings produced by the fabricator to provide information needed by shop personnel to fabricate or assemble the items are not required to be authenticated since they do not contain any fabricator's engineering design.

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Fabricator design drawings

Structural elements or special connections that have been designed specifically for a particular application by a professional member acting for a fabricator shall be authenticated.

Fabricator proprietary items

Drawings for proprietary items (such as open web steel joists) shall be authenticated by the professional member who prepared them.

Standard connections

A professional member may specify that standard connections be selected from industry handbooks. Although the connection drawings do not require authentication, the professional member responsible for their selection shall authenticate the specification.

Erector drawings

Drawings or documents produced by the erector to address temporary loading, temporary bracing, falsework and erection sequence instructions shall be authenticated.

Software

Computer software programs developed by a professional member that involve the practice of the professions constitute professional documents and are required to be stamped. These include, for example, programmable logic controller (PLC) code, application, modeling and simulation programs. The original version or modifications of the program or code (either written or electronic) shall be authenticated.

Packaged software programs may be authenticated by including a separate sheet in the package showing the name and version of the program along with the professional member's stamp, signature and date. For the electronic version of the software program, a member's professional stamp, signature and date should appear in the equivalent of the "About" feature under the "Help" tab commonly found in most software programs.

For PLC (programmable logic controller) code or DCS (distributed control system) code, a professional member's stamp, signature and date should appear on a print-out of the code or a graphical representation of the code, either in paper or electronic format. Similarly for firmware, the stamp should appear on a graphical presentation of the firmware (e.g., SAMA diagram, cause and effect diagram, process control narrative, etc.).

Specifications

Specifications that contain engineering or geoscience decisions shall be authenticated if the specifications are not part of a drawing or other authenticated document, e.g., a specification for concrete strength that does not appear on a foundation design, as a building industry example. As another example, in the area of equipment certification, the Occupational Health & Safety Code requires an engineer to authenticate "specifications" which includes written instructions, procedures, drawings or other documents relating to equipment, supplies and work processes or operations.

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Not every page of a multi-page set of specifications needs to be authenticated if the cover, title or signature page of the specification bundle is authenticated.

Standard drawings

A professional member might be asked to prepare a design drawing that is intended to be used in more than a single instance. The decision whether or not to authenticate such a standard/generic drawing can only be made by the professional member who prepared the drawing. If it is not possible to sufficiently limit or specify the conditions under which the drawing can be used, the drawing should be left unauthenticated.

A professional member who subsequently uses an unauthenticated standard drawing is responsible for determining that the drawing is suitable for the current purpose and for its authentication.

Translated documents

Occasionally a professional member is required to provide a professional document in a language other than his or her own. Typically, the professional member will have the document translated into another language. An issue arises where the professional member is not able to read the translation and is unable to determine whether the translator has correctly translated the document. Translation errors possibly could become construction errors.

In such instances, the professional member should employ the services of a certified translator and obtain a written declaration that the translated text is identical in meaning to that of the original. If the translator is not certified by a recognized certification body, the translator's declaration should be notarized. The professional member can then authenticate the original and translated documents.

4. DOCUMENT MANAGEMENT

4.1 Approving and issuing documents

Professional members should have a formal process for preparing, authorizing and issuing professional documents. The process should include the following procedures, as a minimum:

- Checking to ensure that a document is complete for its intended purpose and that it accurately expresses the output of the professional member's design or analysis;
- Verifying to ensure the document meets the requirements of the work as expressed by codes, standards, APEGA guidelines and contractual requirements;
- Approval by a professional member who acknowledges that the document meets professional standards and accepts responsibility for it by stamping, signing and dating it.

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The Act states that a member is to apply his or her stamp (accompanied by a signature, as per the Regulations) to either of the following:

- a final document, or
- a reproduction (copy) of a final document.

The party to whom a final document is issued is entitled to receive an original stamp and signature on either an original document or on a reproduction of the original document. A reproduction is considered to be a photocopy, fax, PDF, etc. Where an originally-stamped/signed document has been provided, or is not required to be provided, providing reproductions of stamped documents is acceptable.

4.2 Retention of professional documents

There are no requirements in the EGP Act, Regulations or APEGA's by-laws for retaining professional documents. However, copies or originals of authenticated documents are usually kept for reference purposes or for defence against legal claims. A professional document kept in case of possible legal action should be retained at least until the period of professional liability expires. The Alberta *Limitations Act* that came into force on March 1, 1999 provides for a total maximum time of 10 years to discover an "injury" and make a claim. Within those 10 years, the claim must be made within 2 years from the date that the necessary basis of a claim was discovered. Depending on circumstances such as the nature of the work involved, the likelihood of litigation might suggest that the retention period could be shorter. Members who have professional liability insurance should also consult their insurers about their requirements for document retention.

Documents that are retained should be stored in a manner that maintains their integrity and prevents unauthorized use of the documents or the professional stamps and signatures that appear on them. Copies of documents that have been issued to clients should be identified as archival documents to the effect: "This copy or document is for record purposes and shall not be revised."

Employee professionals might ask if they can keep copies of the documents that they prepared or authenticated. Employers may choose to allow that, but they are not obligated or compelled to provide copies, or to allow employees to take copies, since the documents are the property of the employer not the employee.

4.3 Document ownership and use of other professional members' documents

Copyright in a professional document belongs to the author. Professional members must not use someone else's document from a completed project as the basis for a new project without the consent of the author.

In *The Canadian Law of Architecture and Engineering*, the authors distinguish between the ownership of drawings, specifications and other documents and the ownership of copyright. They say "the ownership of drawings and related documents refers to the ownership of the drawings themselves, and is governed by the contract between the architect or engineer and the client. The ownership of copyright, on the other hand, refers

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to the ownership of the expression of the idea embodied in the drawings and the right to reproduce that expression. Architects or engineers who create the copyright work retain copyright in the work unless they expressly assign it to another." ¹

Professional members as independent contractors

Where a professional member or permit holder is in the position of independent contractor providing services to a client, the professional is not considered to be the client's agent for such purposes. Documents created by professional members only to help them in performing their professional duties are theirs. Unless a contract between the professional member and the client specifies otherwise, documents prepared for the client at the client's request belong to the client once the client has paid for them. However, the copyright in the documents is owned by the professional member and the design, for example, cannot be reproduced by the client without the professional member's consent, subject to any agreement between them to the contrary.

Professional members as agents of their clients or employers

Professional members might act as agents for their clients for different reasons. They could represent the clients in negotiations with contractors, authorities having jurisdiction or other professionals. Based on the reference noted below, it appears that: Drawings and documents prepared for the client by the professional in that capacity belong to the client. Documents provided by the professional member to an authority for project approval on behalf of the client belong to the client. Similarly, professional members who are employees would be considered agents of their employers, not independent contractors. With regard to copyright, where work is performed under a service contract or under employment, the copyright belongs firstly to the employer unless there is an agreement otherwise.

Matters of copyright should be discussed prior to commencement of work, and it may be appropriate to seek legal counsel. The information above is not to be construed as legal opinion or advice.

4.4 Dual stamping

Some clients may have a requirement for two consulting professional members to stamp a document such as a design drawing, e.g., a design engineer and a checking engineer. Dual stamping is not a requirement under the Regulations. One engineer's stamp is sufficient if the engineer is in a position to accept responsibility for the drawing. That would not preclude the client from including in its contract with the consultant the provision for another engineer to review the original engineer's work. As recognized in the Regulations, a professional member is allowed to review the work of another person and stamp that work after a thorough review. The designer and the checker would thus both bear responsibility for the design drawing that they authenticated. .

¹ Beverley M. McLachlin, Wilfred J. Wallace, and Arthur M. Grant, *The Canadian Law of Architecture and Engineering*, Second edition, (Vancouver, BC: Butterworths Canada Ltd., 1994), 264.

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5. ELECTRONIC DOCUMENTS

It is acceptable for a professional document to be prepared, authenticated and issued solely in electronic form. The following authentication requirements must be met:

- The document must show the image of the professional member's stamp.
- The document must show the image of the professional member's hand-written signature.
- The document must show the date on which the professional member stamped and signed it.
- The document must incorporate a digital signature/certificate obtained from APEGA.

In keeping with Section 4.1, the party to whom a final electronic document is issued is entitled to receive a document incorporating a digital signature/certificate. However, electronic *copies* of authenticated documents may be provided to someone without the copies themselves incorporating a digital signature/certificate if copies are acceptable to the recipient. Copies are not the actual authenticated documents, they are only copies. If a copy is not acceptable, then an electronic document that has been signed using the APEGA digital signature will need to be issued, or a "wet" stamped and "wet" signed paper document will need to be issued.

For example, if a professional member stamps and signs a paper document and issues that authenticated document, the professional member can provide *copies* of that authenticated document in electronic form (e.g., a PDF) without a digital signature/certificate. This is considered as being no different from providing copies in hard form (e.g., paper photocopies, mylars, etc.) without a "wet" signature and stamp on the copies. In other words, if receiving a document by fax is acceptable to the recipient, then receiving a PDF of the document by email should also be acceptable.

5.1 Stamp Image

The Regulations stipulate that, "A professional member or licensee shall not acquire a stamp or seal from any source other than the Registrar." Scanning another member's stamp and altering the image to insert a new name is not acceptable.

A professional member may obtain an electronic stamp in only one of two ways:

- by requesting an electronic stamp (computer file) from APEGA, or
- by scanning the imprint of his or her own manual stamp obtained from APEGA.

The image of an electronic stamp must correspond in all aspects to the original stamp issued by APEGA in order to preserve its characteristics. The size of an electronic stamp image must be sufficient to ensure the elements of the stamp are legible.

As with the manual stamp, the professional member shall ensure that access to the electronic stamp remains under his or her control to prevent unauthorized use. The

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stamp shall be applied by the professional member or by a person acting under the member's direct control.

5.2 Hand-written Signature Image

The image of the professional member's hand-written signature may be obtained by the member scanning his or her signature. It must appear with the stamp and the date on which the document was stamped and signed.

5.3 Digital Signature/Certificate

The term "digital signature" refers to a mathematical technological process using asymmetric cryptography to demonstrate the authenticity of a document. It does not mean the visual image of a hand-written signature. The digital signature and certificate for authenticating an electronic document may only be obtained from APEGA. Ordering information is available on APEGA's website. Since the visual image of a written signature is capable of being copied, the secure digital signature is required for documents that are issued electronically. The digital certificate verifies that the document was signed by a professional member of APEGA and that the content of the document has not changed since it was signed.

The member must not disclose to anyone the personal security codes enabling use of his or her digital signature.

5.4 Storing Electronic Documents

Authenticated electronic documents that are retained for reference or liability purposes should be stored in a manner that maintains their integrity. If that is not possible, the electronic documents should be stored without stamps and signatures and hardcopy versions retained instead.

APPENDIX

A-1 SUPERVISION AND CONTROL

The Act restricts the practice of engineering or geoscience to professional members or to persons who are under their direct supervision and control. For the purpose of this practice standard, an adequate supervision and control system is defined as a system which permits a professional member to accept professional responsibility for the results of the engineering, geological or geophysical tasks performed by others working under a professional member's supervision and control.

Judging the adequacy of a supervisory and control system is an exercise in risk management. No system will guarantee perfect results. However the following factors, if properly considered, could increase the probability of satisfactory work.

- The training and experience (knowledge) of the supervisor.
- The training and experience (knowledge) of the persons performing the tasks.
- The reliability of the persons performing the tasks.
- The degree of technological novelty of the tasks.
- The degree of complexity of the tasks.
- The number of discrete tasks and technical disciplines being controlled.
- The physical distance between the supervisor and the persons performing the tasks.
- The communication system between the supervisor and the persons performing the tasks.
- The formality of the approval process.
- The schedule within which the tasks should be accomplished.

The ultimate criteria for judging the adequacy of a supervision and control system is the quality of the completed work as represented by the final documents.

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A-2 EXCERPTS FROM THE ACT, REGULATIONS AND BY-LAWS

A-2.1 Who may use a stamp and permit number

The *Engineering and Geoscience Professions Act* spells out who is allowed to apply the professional stamp or the permit number and under what circumstances it may be applied.

Engineers

3(2) *No individual, corporation, partnership or other entity, except a professional engineer, licensee or permit holder entitled to engage in the practice of engineering, shall affix the stamp or seal of a professional engineer or licensee or the permit number of a permit holder or allow that stamp, seal or permit number to be affixed to a plan, drawing, detail drawing, specification or other document or a reproduction of any of them unless*

- (a) *that plan, drawing, detail drawing, specification, other document or reproduction was prepared by or under the supervision and control of, and*
- (b) *the stamp, seal or permit number is affixed with the knowledge and consent or in accordance with the direction of*

the professional engineer or licensee to whom or the permit holder to which the stamp, seal or permit number was issued.

(3) *Notwithstanding subsection (2), a professional engineer, licensee or permit holder may affix a stamp, seal or permit number, as the case may be, to a plan, drawing, detail drawing, specification, other document or reproduction prepared by other persons if the professional engineer, licensee or permit holder completes a thorough review of and accepts professional responsibility for that plan, drawing, detail drawing, specification, other document or reproduction.*

Geoscientists

6(2) *No individual, corporation, partnership or other entity, except a professional geoscientist or a licensee or permit holder entitled to engage in the practice of geoscience, shall affix the stamp or seal of a professional geoscientist or licensee or the permit number of a permit holder or allow that stamp, seal or permit number to be affixed to a map, geoscientific cross-section, specification, report or other document or a reproduction of any of them unless*

- (a) *that map, geoscientific cross-section, specification, report, other document or reproduction was prepared by or under the supervision and control of, and*

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- (b) the stamp, seal or permit number is affixed with the knowledge and consent or in accordance with the direction of the professional geoscientist or licensee to whom or the permit holder to which the stamp, seal or permit number was issued.

(3) Notwithstanding subsection (2), a professional geoscientist, licensee or permit holder may affix a stamp, seal or permit number, as the case may be, to a map, geoscientific cross-section, specification, report, other document or reproduction prepared by other persons if the professional geoscientist, licensee or permit holder completes a thorough review of and accepts professional responsibility for that map, geoscientific cross-section, specification, report, other document or reproduction.

Professional Licensees

83.2(1) *No individual, corporation, partnership or other entity, except a professional licensee (engineering), shall affix the stamp or seal of a professional licensee (engineering) or allow that stamp or seal to be affixed to a plan, drawing, detail drawing, specification or other document or a reproduction of any of them unless*

- (a) *that plan, drawing, detail drawing, specification, other document or reproduction was prepared by or under the supervision and control of, and*
(b) *the stamp or seal is affixed with the knowledge and consent or in accordance with the direction of*
the professional licensee (engineering) to whom the stamp or seal was issued.

(2) *Notwithstanding subsection (1), a professional licensee (engineering) may affix a stamp or seal to a plan, drawing, detail drawing, specification, other document or reproduction prepared by other persons if the professional licensee (engineering) completes a thorough review of and accepts professional responsibility for that plan, drawing, detail drawing, specification, other document or reproduction.*

83.3(1) *No individual, corporation, partnership or other entity, except a professional licensee (geoscience), shall affix the stamp or seal of a professional licensee (geoscience), or allow that stamp or seal to be affixed, to a map, geoscientific cross-section, specification, report or other document or a reproduction of any of them unless*

- (a) *that map, geoscientific cross-section, specification, report, other document or reproduction was prepared by or under the supervision and control of, and*
(b) *the stamp or seal is affixed with the knowledge and consent or in accordance with the direction of*
the professional licensee (geoscience), as the case may be, to whom the stamp or seal was issued.

(2) *Notwithstanding subsection (1), a professional licensee (geoscience) may affix a stamp or seal to a map, geoscientific cross-section, specification, report or other document or reproduction prepared by other persons if the professional licensee (geoscience), as the*

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case may be, completes a thorough review of and accepts professional responsibility for that map, geoscientific cross-section, specification, report, other document or reproduction.

A-2.2 How the stamp and permit number are to be used

The Act also addresses how the stamp and the permit number are to be used.

78(1) *A professional member, licensee or restricted practitioner shall, in accordance with the regulations,*

- (a) sign documents or records, and*
- (b) stamp or seal documents or records.*

(2) A permit holder shall affix its permit number on documents or records in accordance with the regulations.

86.2(1) *Sections ... 78 ...apply to a professional licensee as if the professional licensee were a professional member.*

Stamp

From the *Engineering and Geoscience Professions Regulation*:

54(1) *A stamp or seal issued to a professional member or licensee must at all times remain under that person's direct control and must be applied by the professional member or licensee, or by a person acting under the professional member's or licensee's immediate and direct control, to all final plans, specifications, reports or documents of a professional nature*

(a) that were prepared by the professional member or licensee or under the professional member's or licensee's supervision and control, or

(b) that were prepared by another person in circumstances where the professional member or licensee has thoroughly reviewed them and accepted professional responsibility for them.

(2) No person shall permit a stamp or seal to be physically located in a manner that would allow its use by a person other than the professional member or licensee to whom it was issued.

(3) When a stamp or seal is applied, the professional member or licensee to whom it was issued shall ensure that the stamp or seal is accompanied with that person's signature and the date on which the stamp or seal is applied.

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- (4) A stamp or seal may be applied to the cover page or final page of reports or documents in a manner which clearly indicates acceptance of professional responsibility for the reports or documents, without being applied to each page.*
- (5) A professional member or licensee shall not acquire a stamp or seal from any source other than the Registrar.*
- (6) A professional member or licensee shall only use a stamp or seal while that person is registered pursuant to this Regulation.*
- (7) Stamps and seals are the property of the Association and a person in possession of a stamp or seal shall surrender it to the Association on demand.*
- (8) A professional member or licensee may, with the approval of the Registrar, apply a computer generated facsimile of the stamp or seal if that person otherwise meets the requirements of the Act and this Regulation.*

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Permit Number

From the *Engineering and Geoscience Professions Regulation*:

49 *When the practice of engineering or geoscience is carried on by a partnership, corporation or other entity pursuant to a permit under section 48, all final plans, specifications, reports or documents of a professional nature must*

- (a) *be signed by, and stamped or sealed with the stamp or seal of*
 - (i) *the professional member or licensee who prepared them or under whose supervision and control they were prepared, or*
 - (ii) *in the case of plans, specifications, reports or documents that were prepared by other persons, the professional member or licensee who thoroughly reviewed and accepted professional responsibility for them,*

and

- (b) *show the permit number issued to the partnership, corporation or other entity under section 48.*

A-2.3 Surrender of the stamp

The by-laws of the Association outline the circumstances requiring return of the stamp to APEGA.

35 *Professional members, licensees, permit holders, certificate holders, and registered professional technologists shall surrender to the Registrar, forthwith upon development of any of the following eventualities, any seals, stamps and certificates that have been issued to them:*

- (a) *temporary withdrawal of the professional member, licensee, permit holder, certificate holder, or registered professional technologist from practice of the profession for a period estimated to exceed 1 year;*
- (b) *resignation of the professional member, licensee, permit holder, certificate holder, or registered professional technologist from the Association;*
- (c) *the suspension or cancellation of the professional membership, license, permit or certificate.*