

Maryland Professional Engineer

VOLUME 46 NUMBER 4

www.mdspe.org

JAN. 2003

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Maryland Society of Professional Engineers

*A state society of the National
Society of Professional Engineers*

- Promoting the ethical, competent and licensed practice of engineering
- Enhancing the professional, social and economic well-being of our members

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Architects Distressed by Rejection of Plans Not Signed by Professional Engineers

Electrical Design Is Not Incidental to the Practice of Architecture Says Prince George's County building code official

By Robert L. Mead
Executive Director, MDSPE

Architects are distressed by what they claim are more narrow interpretations of Maryland's architecture and engineering licensing requirements, but they are not getting a lot of help from the state licensing agency.

"Aggressive engineers" in some county permit bureaus are leaving permit examiners free to demand engineering seals for every kind of "engineering" that architects might have in their drawings.

"New engineers in Montgomery and Prince George's County are now overturning decades of acceptance of architect's seals for incidental engineering," says John Corkill. Mr. Corkill is a Prince Georges' County architect who serves as the Maryland Society of Architects' liaison to the Maryland State Board of Architects. He says architects are concerned that the new interpretations may spread to other counties.

The PG County Permits & Review Division issued Bulletin 2002-4 on Oct. 22. A copy is posted on our website along with this issue of the newsletter. It supercedes Bulletin 96. A County official maintains that the policy is not new, but simply a refinement of existing policy to ensure that only qualified professionals prepare plans. Behdad Kashanian, head of the Engineering & Plans Review Section, said engineers as well as architects might have some problems, especially if they are signing a document not in their specialty area.

The new Bulletin states that a licensed architect is required in the preparation of permit documents for buildings intended for public or residential use. It also states that a licensed P.E. is required to sign, seal and date all engineering documents prepared in connection with the alteration, construction, design or repair of a building structure, build-

ing engineering system and its components, machine, equipment, process, works, subsystem, project, public or private utility or facility.

[The P.G. Bulletin correctly defines "public use" as "the use of a building or other structure for the primary purpose of human use or habitation. Note that the Memo from the Board incorrectly defines "public use" as meaning "the use of any structure by the public for any purpose, including (but not limited to) employment, assembly, health care, education, and business.]

There are said to be 300 to 400 smaller architectural practices around the state that could be affected. Many of these firms do framing plans, lighting layouts and sizing beams, wires and ducts under the traditionally accepted concept of "incidental practice."

Dozens of them wrote letters to the State Board of Architects, insisting that the Board continue to uphold those rights as they were enunciated in their March 1996 Memo to City and County Permit and Inspection Officials Re Requirements for Use of Architects and Engineers in Building Permit Applications.

The Board responded as follows, according to its minutes as posted on their website:

Aug. 28 - The Board responded to the letter from the firm of Corkill Cush & Reeves that came before the Board at the July meeting, regarding the incidental practice of engineering by an architect.

As previously discussed, the Board referred back to the Memorandum dated March 27, 1996 that reflects the Board's recognition of the expertise of the architect as well as the professional engineer's. The Board stated that even though there may be a number of archi-

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The Maryland Professional Engineer is published six times a year (Jan-Feb, Mar-Apr, May-Jun, Jul-Aug, Sept-Oct, Non-Dec) by the Maryland Society of Professional Engineers, 611 S. Linwood Ave., Baltimore, MD 21224. Our preferred mailing address is P.O. Box 12150, Baltimore, MD 21281-2150.

- January 7**
MDSPE Executive Committee Meeting
Society Headquarters
- January 8**
Maryland General Assembly Convenes
- January 15**
State Board for Professional Engineers Meeting, 500 N. Calvert St., Baltimore
- February 1**
MATHCOUNTS Competition:
Baltimore & Chesapeake Chapters, Perry Hall Middle School
Southern Maryland Chapter, Mechanicsville Elementary School
- February 4**
MDSPE Executive Committee Meeting
Society Headquarters
- February 8**
MATHCOUNTS Competition:
Potomac Chapter, Univ. of Md. College Park
Annapolis Chapter, Severn School
Frederick Chapter, Walkersville Middle School
- February 15**
Maryland Wood Bridge Challenge
Museum of Industry, Baltimore
- February 16-22**
National Engineers Week
- February 19**
State Board for Professional Engineers Meeting, 500 N. Calvert St., Baltimore
- February 22**
MATHCOUNTS Competition:
Hagerstown Chapter, E. Russell Hicks Middle School
- March 8**
MATHCOUNTS Competition:
Maryland State Finals
Johns Hopkins University, Baltimore
- March 10**
MSPE Board of Directors Meeting
Location TBA
- April 1**
MDSPE Executive Committee Meeting
Society Headquarters
- April 7**
Maryland General Assembly Closes
- April 16**
State Board for Professional Engineers Meeting, 500 N. Calvert St., Baltimore
- April 25**
MDSPE Awards & Installation Banquet
Walters Art Gallery, Baltimore

This Is a Time to Showcase Your Work

Michael L. Clar, P.E.
President



On behalf of the Society I would like to wish all of our members and friends a very joyous holiday season and a happy and prosperous new year.

As we begin to close the books on 2002, it is a good time to reflect on all the activities that we have accomplished with our colleagues. Often a singular activity or project or the contributions of a colleague may come to mind that really stands out above the rest, and may qualify for one of the many awards available through MDSPE and NSPE.

The MDSPE awards committee is currently accepting nominations for the NSPE Fellow Membership Grade award. The Membership grade was established by NSPE in the 1999-2000 fiscal year to honor those active NSPE members who have demonstrated exemplary service to the profession, the Society, and the community. Applications are available at <http://www.nspe.org/aboutnspe/ab1-fellow.asp>.

There are a number of other awards that include:

- Industry New Product Award
- Distinguished Service Award
- NSPE Award
- Young Engineer of the Year
- Engineering Education Excellence Award
- PEPP Professional Development Award
- PEI Scholarship Program
- Professional Engineers in Industry Professional Development Award

Information on all these awards is presented below. More is available on the MDSPE web site. If you know a colleague who qualifies for any of these awards, please let us know.

Our awards committee will be happy to work with you to prepare the required submittal package so that we can help Maryland based engineers achieve the recognition that they deserve.

Engineers and firms in our State have done much outstanding engineering work during the year. This is a chance to showcase your work and that of your firm or institution. We look forward to seeing lots of entries.

NOMINATIONS FOR MDSPE AWARDS

MDSPE is seeking nominations for annual awards to be presented at our April 25 Annual Awards & Installation Banquet at the Walters Art Gallery. Nominations should reach the MDSPE offices by March 30. Contact the office for information.

MSPE Distinguished Service Award

Recognize members for exceptional technical contributions to the engineering profession, contributions to their communities, and to MDSPE.

Engineering Education Excellence Award

Recognizes engineering faculty who have demonstrated the ability to link engineering education with professional practice. The recipients must be licensed and have a tenure-track faculty appointment in an ABET-EAC accredited engineering program.

2003 New Product Award

Recognizes the full spectrum of benefits that come from the research and engineering of new products. These include added employment, economic development, strength-

ening of the nation's competitive position internationally, and contribution to the public's standard of living.

2003 Industry Professional Development Award

Presented to an industrial employer of engineers that has made outstanding contributions to the advancement and improvement of the profession through its employment policies and practices.

2003 Private Practice Professional Development Award

Presented to an engineering firm that has made outstanding contributions to the advancement and improvement of the profession through its employment policies and practices.

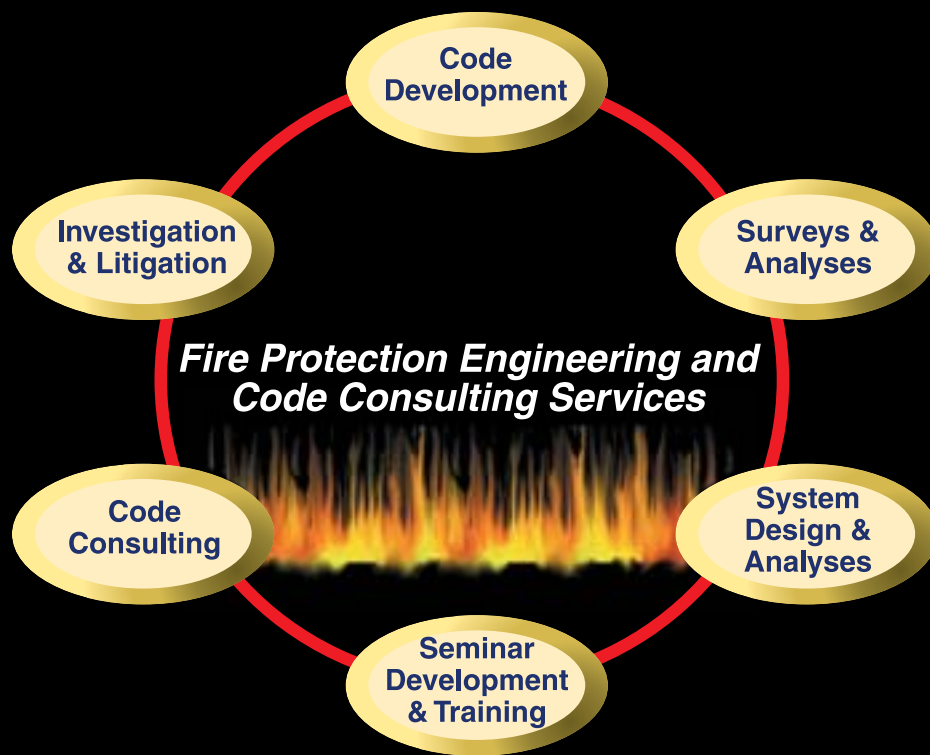
Young Engineer of the Year Award

Recognizes young members (35 years of age or younger as of January 1, 2003) who have made outstanding contributions to the profession and their communities.



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Architects Distressed by Rejection of Plans Not Signed by Professional Engineers

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itects who incorporated some engineering practice into their architectural practice, the licensing statute governing architects does not specifically authorize nor preclude incidental practice of engineering by architects. The Board re-affirmed its position stated in the 1996 memorandum.

Sept. 25 - The Board acknowledged a letter provided by the firm of Corkill Cush Reeves from Prince George's County Government regarding a previously discussed plans review issue.

[That letter was sent on Sept. 18 by Stan E. Wildesen, P.E., building code official. He wrote:

"... Prince George's County has taken the position that "although electrical design is an "integral part" of the overall building design, it is not incidental to the practice of architecture, which we believe it the intent of the new law. Consequently, the signature and seal of a Maryland licensed Professional Engineer is required for all commercial electrical plan submittals.

Should you disagree with the County's interpretation, please provide written correspondence from the State Board verifying their position regarding architects performing electrical design work. Further, should the State Board authorize your organization to design electrical installations, the County will revisit their position."]

Oct. 23 - Stephen Parker, Chairman discussed the tone of the minutes dated August 23(sic), 2002 regarding signing and sealing requirements for architects and professional engineers.

Motion was made by Mr. Parker, seconded by Mr. Boyar and unanimously carried by the members of the Board to re-affirm the Board's position on the Memo dated March 27, 1997 (sic) and addressed to City and County Permit and Inspections officials.

Architects Ponder Legal Action

Now the architects are pondering their next step. They have obtained a private legal opinion on the issue of whether the actions by Montgomery County and Prince George's counties prohibiting licensed Maryland architects from performing engineering services which are incidental to the architectural services which are they provide is consistent with Maryland law.

The short answer they got is "yes" – the prohibition is inconsistent with Maryland law. Here are the points they make:

- The Architects Act authorizes licensed architects to perform many of the same services as registered professional engineers
- COMAR does not require an architect to obtain professional services; rather it permits the architect to engage other professional consultants as he or she sees fit
- The General Assembly and Attorney General each recognize the inherent overlap between the practices of architecture and engineering
- The actions of Montgomery and P.G. counties restrict the ability of architects to perform services for which they are trained, and, under Maryland law, are permitted to provide
- There is no requirement under Maryland law that drawings prepared for the alteration, construction or design of a building intended for public use be sealed by a registered professional engineer

- Other jurisdictions recognize the overlapping nature of architecture and engineering and, therefore, permit licensed architects to perform engineering services which are incidental to their architectural practice.

So that seems to be their case. We'll see where it goes from here.

EDITORIAL COMMENT: Perhaps this problem could have been avoided if the Department of Labor, Licensing & Regulation had kept its promise to the Council of Design Professionals to fully inform building code officials on the nuances of the 2001 changes to the design professions statutes.

This is particularly true on the issue of incidental practice. We argued that the deletion of authorization of professional engineers for the incidental practice of architecture would come back to bite us. We accepted the new definition of "public use" as a compromise.

To date, the Department has held an information session for the Maryland Municipal League, but ignored the Maryland Association of Counties, whose members are responsible for issuing many more building permits.

The nuances of "incidental practice" have simply not been communicated.

If this current matter ends up in litigation and eventually an appellate court opinion, the landscape could change dramatically in a way the legislature never intended.

It may be time for the design professions to come to some agreement on "incidental practice" on our own and take our solution to the legislature.

VOLUNTEER FOR MATHCOUNTS

Like to network with other engineers? Enjoy working with kids? Whatever your reason, you're sure to get more out of volunteering to help with MATHCOUNTS than most other ways of participating in MDSPE. Contact your Chapter Coordinator for details.

Annapolis—David Smith, Home: 410-987-4739; email:soi@toad.net

Baltimore & Chesapeake—Joel Oppenheimer, Work: (410) 837-5840; email:joel.Oppenheimer@jacobs.com

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Potomac—Chris Anderson, Work: (301) 688-2292; Home: (301) 262-7268; Chris_S_Anderson_PE@worldnet.att.net

Southern Maryland—Bernadette Lewis, work: (888) 440-3311 Ext. 4340; email: lewiso@smeco.com

Previous Susquehanna, now included with Chesapeake—John Resta, P.E., work: (410) 436-5244; home: (410) 838-3381

State Board of Architects

March 27, 1996

Memorandum to City and County Permit and Inspection Officials

RE: Requirements for Use of Architects and Engineers in Building Permit Applications.

Many Building Officials throughout the State have requested clarification from the State Board of Architects regarding when an architect and/or engineer is required on preparation of building permit documents. Following are several questions and answers that we hope will clarify some of the issues that you raised.

1. When is the use of an architect required in the preparation of building permit documents?

State law requires the use of an architect in preparation of building permit documents that are "prepared in connection with the alteration, construction, design, or repair of a building intended for public use. [Section 3-103(a) of the Business Occupations and Professions Article, Annotated Code of Maryland]. "Public use " means the use of any structure by the public for any purpose, including (but not limited to) employment, assembly, health care, education, and business.

BOCA National Building Code, Section 114.0 Professional Architectural and Engineering Services states that "All construction documents required for a building permit application shall be prepared by a register design professional consistent with the professional registration laws of the state." (underline added). Maryland State law specifically requires the use of an architect in connection with the design of public use buildings. The BOCA Code clearly defers to the State law.

2. What exceptions are there to the requirement of the use an architect?

The use of an architect is not required when (a) an engineer (licensed in the State and practicing within the parameters of his or her expertise) performs engineering service, (b) the architectural component of the work is incidental to that specific service, and (c) the structure is not intended for a public use. Examples of "incidental service" include (but are not limited to): public utility pump stations, storage sheds, or utility buildings.

The use of an architect is not required by State law for the design of a single family residence, subject to limitations stated on Section 1-303 of the Business Occupations and Professions Article, Annotated Code of Maryland.

3. When is the use of an engineer required?

Title 3 of the Business Occupations and Professions Article of the Annotated Code of Maryland governs the Maryland architects and does not prescribe the use when the use of an engineer is required. The State law that governs the Maryland engineers, contained in Title 14, Business Occupations and Professions Article, Annotated Code of Maryland, would be the source of that requirement. The State Board of Architects does recognize that the use of engineers is vital and important to public safety. Although there are no State licensing

regulations that distinguish between engineering disciplines, the appropriate regulations governing Maryland professional engineers require that engineers practice within their field of expertise.

4. When can an architect perform engineering services?

The State Board of Architects recognizes that architects are permitted to perform certain engineering services in conjunction with architectural services. The State law defines "Practice of architecture" as the providing of "any service or creative work ... in regard to an addition, alteration of, or construction of a building or an integral part of a building . . .". An "integral part" is any specific element of a structure, such as a structural member, mechanical or electrical device. The State Board of Architects recognizes that architects must practice within their range of expertise, and must comply with the standard of care consistent with customary service.

5. What authority does a building official have to request additional documentation?

The State Board of Architects recognizes the authority of the building official to require additional architectural or engineering documentation from a building permit applicant. The additional documentation may take the form of the design professional's calculations, or an explanation of the design requirements.

6. What should a building official do when suspecting that a seal is fraudulent?

Request an architect to display his or her wallet card, indicating current licensure. Architects are required to sign, seal and date the documents that they submit for a building permit application (Section 3-201, Business Occupations and Professions Article, Annotated Code of Maryland). If these items are not complete, or legible, request them to be made so. Only architects with a current valid Maryland may sign, seal and date documents submitted in connection with the building permit applications in this State.

7. Can an architect or an engineer seal someone else's work?

No. It is against the State law for an architect to sign or seal a document not prepared by them in accordance with the applicable statutes and regulations.

Thank you for your review of this material. Please note that this memorandum is in addition to any other previous communications that you have received from the State Board of Architects, and may be further supplemented or amended. The Board encourages all of you to continue to direct questions you may have to the State Board of Architects.

James Posey Associates Starts 5000th Project

James Posey Associates Inc. has reached a corporate milestone with the start of its 5000th project—design of emergency lighting for the U.S. Capitol Building in Washington. The Baltimore-based consulting firm was established in 1911.

The project involves modification or replacement of nearly 300 emergency lighting fixtures and exit signs. In recent years the firm designed major modernizations of the building systems in the Dirksen Senate Office Building and Rayburn House Office Building.

Public Relations Society Honors MDSPE Executive

The Maryland Chapter of the Public Relations Society of America selected MDSPE Executive Director Bob Mead for its 2002 Lifetime Achievement Award.

“Throughout a career spanning more than 40 years,” reads the nomination, “Bob has been a trusted counselor to corporations, associations, institutions, government agencies and non-profit organizations. His work has been exemplary in providing an effective blend of strategic thinking, thoughtful evaluation, and creative execution in the development of programs producing measurable results, enhancing communities, furthering the goals of the organizations he has served—and in many ways setting new standards for the practice of public relations. “

Accredited since 1982 and the first Maryland counselor elected to the national PRSA College of Fellows in 1992, Mead heads Smith Mead Services Group, which administers MDSPE under a management contract.

Are You Eligible for Life or Retired Member Status?

Do you have at least 40 years of continuous NSPE membership? Or are you over 60 years of age, retired (work fewer than 20 hours per week) and have at least 30 years of NSPE membership? If so, you are eligible for Life Member status in NSPE. Life member status requires no dues to receive NSPE and MDSPE mailings. However, you are free to make a donation to cover these costs. In addition, Retired Member status is available to those who are over 60 years of age, retired, and have at least 10 years of NSPE MEMBERSHIP. Retired Members' dues are half of the Member rate. Please contract MDSPE headquarters at 410-675-8967 for more information.

Foundation Contributions are Tax-Deductible

Are you aware that contributions to the MDSPE Foundation are income-tax deductible? The Foundation has traditionally supported scholarship funding for students at UM-College Park and Johns Hopkins. We continue to hope for adequate funds to expand scholarship coverage to other Maryland engineering schools. You can also contribute to MATHCOUNTS through the Foundation.

Nominations for NSPE Fellow Status

Bob Sebastian, NSPE, Jim Lesikar, FNSPE, and Karen Moran, FNSPE, make up Maryland's nominating committee for Fellow status in the national society. The Fellow recognition program honors licensed members who have demonstrated exemplary service to the profession, the Society, and the community. Service should include contributions in the national arena, such as prominent participation in NSPE and its state societies. Prominent participation in other nationally recognized engineering societies will also be considered. Complete nominations must be submitted to the Maryland committee by Jan. 15, 2003. Full information is available on our website. Click on state society, then awards

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2003 MDSPE Awards Dinner Set for April 25

We have set Friday, April 25, for our annual awards and installation dinner. This year's event will be held in the newly renovated and world-famous Walters Art Gallery in Baltimore. Save the date.

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