

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 100 Agency Board for Registration of Architects

Rule No. 100-X-5-.06

Rule Title: Construction Administration

 New; XX Amend; Repeal; Adopt by Reference

Would the absence of the rule significantly harm or endanger the public health, welfare or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of this rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Cynthia M Kim

Date 2/11/13

FOR APD-USE ONLY

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DOCUMENT NO. _____

BOARD FOR REGISTRATION OF ARCHITECTS
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NOTICE OF INTENDED ACTION

AGENCY NAME: Board for Registration of Architects

RULE NO. AND TITLE:

100-X-5-.06 Construction Administration

INTENDED ACTION: Amend rule.

SUBSTANCE OF PROPOSED ACTION: This proposed amendment more completely describes the architect's obligation to provide observation of construction services and changes the name of the rule.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Oral or written comments should be addressed to the Board for Registration of Architects at the above address or phone number and must be received no later than April 4, 2013.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: April 4, 2013.

CONTACT PERSON AT AGENCY: Cindy McKim at (334) 242-4179 or
Cindy.McKim@boa.alabama.gov.



Cynthia J. McKim
Executive Director

APA6
07/04

ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 412223(f))

Control No. 100 Agency: Board for Registration of Architects

Rule No: 100-X-5-.06

Rule Title: Construction Administration

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. **NEED/EXPECTED BENEFIT OF RULE:** Ensures that buildings are constructed in accordance with construction documents prepared by a registered architect.
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:** The architect whose seal is on construction documents for a building project has an obligation to ensure that the building is being constructed in strict accordance with sealed, approved construction documents. In some instances, the owner may have to pay for these services as part of the contract between the owner and the architect.
3. **EFFECT OF THIS RULE ON COMPETITION:** None.
4. **EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:** None.
5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:** None.
6. **SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:** Board for Registration of Architects funds.
7. **THE SHORT TERM/LONG TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:** Because the architect provides construction administration services, construction errors (if any) will be detected and corrected prior to project completion, ensuring the health, safety, and welfare of the building's occupants. In many instances, correction of construction errors after completion of the project costs more than if noted during active construction of the building.
8. **UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:** None.
9. **THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:** Construction administration is essential to protecting the public's health, safety, and welfare. The building owner can be assured that the building is

constructed in accordance with approved plans prepared by a licensed professional.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: None.

(1) Observation of construction as described herein constitutes the practice of architecture as defined by the Board. Therefore, when Alabama law requires that an architect must prepare or supervise and control the preparation of the architectural plans and specifications for a new building or the alteration of or an addition to an existing building, then the sealing architect or person(s) working under the architect's responsible control must provide observation of construction for the project.

(2) For purposes of this rule, "observation of construction" means the administration of the portion of the construction contract described and documented in the architectural plans and specifications, including but not limited to, the following services:

(a) visiting the construction site at intervals appropriate to the contractor's operations to determine that the work is proceeding generally in accordance with the technical architectural submissions submitted to the owner and/or the building official or governmental authority having jurisdiction over the building project at the time the building permit was issued; and

(b) reviewing shop drawings, samples, and other submittals required of the contractor by the terms of construction contract documents; and

(c) notifying the owner and the building official or governmental authority having jurisdiction over the building project about the following conditions:

(i) observed and/or identified code deviations;

(ii) any known major or substantial deviation(s) from the architectural plans and specifications documented in the construction contract or any approved amendments thereto which affect code compliance;

(iii) major or substantial differences between the technical submissions and the construction work in progress; and/or any deviation from the architectural plans, drawings, specifications, or other technical submissions which the architect identifies as creating a hazard to the public.

(1)(3) On a construction project where a building permit has been issued and the sealing architect has not been engaged, or is no longer engaged, to perform at least minimum construction administration services, observation of construction as defined in subsection (a) below delineated in paragraphs (2)(a) through (c) above, the sealing architect ~~must~~ is required to report this fact to the building official or other governmental authority having jurisdiction, the owner, the client, the contractor, and the Alabama Board for Registration of Architects that he or she has not been, or is no longer, so engaged.

(4) The architect's observation of construction and reporting obligations, as described above, will cease when a Certificate of Occupancy is issued by the governmental authority having jurisdiction, unless otherwise extended by the architect's agreement.

~~(2) The minimum construction administration services expected of the sealing architect deemed necessary to protect the health, safety, and welfare of the public shall be periodic site observations of the construction progress and quality, review of contractor submittal data and drawings, and reporting to the building official and owner any violations of codes or substantial deviations from the contract documents that the architect observed. As with other architectural services, qualified employees of registered architects may perform construction administration services under the instruction and responsible control of their employers.~~

Author: Board for Registration of Architects

Statutory Authority: Code of Ala. 1975, §34-2-30

History: New Rule: February 19, 2010. **Amended:** July 19, 2010.