

LAWS, RULES AND REGULATIONS

**STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
OF WEST VIRGINIA**



FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 2/28/77

CHARLESTON, WEST VIRGINIA
JANUARY 13, 1976

OFFICE OF THE SECRETARY
1800 East Washington Street, Room 411
CHARLESTON, WEST VIRGINIA 25305

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State of West Virginia

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

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ENGINEER'S CREED

"As a professional engineer, I dedicate my professional knowledge and skill to the advancement and betterment of human welfare. I pledge to give the utmost of performance, to participate in none but honest enterprise, to live and work according to the laws of man and the highest standards of professional conduct, to place service before profit, honor and understanding of the profession before personal advantage, and the public welfare above all other considerations. In humility and with need for divine guidance, I make this pledge."

INTRODUCTION

Laws which prescribe licensure and regulate the practice of professions are enacted under the police powers of this State and are primarily for the protection of the public, which naturally includes the protection of fellow employees whether on public or private property. The Laws, Rules and Regulations concerning the practice of the profession of engineering, as published herein, are intended for the guidance of public officials whose responsibility affects engineering; for persons who seek licensure to practice professional engineering and for all others that they may be made fully acquainted with the meaning and intent of the Laws, Rules and Regulations for Professional Engineers.

It is hoped that the information contained herein will be helpful in understanding the substantive and procedural aspects of the Statutory Law and the Rules and Regulations under which the Board endeavors to carry out its responsibilities.

WEST VIRGINIA STATE REGISTRATION LAW FOR PROFESSIONAL ENGINEERS

Chapter 30, Article 13, of the West Virginia Code

§30-13-1. LEGISLATIVE FINDINGS; INTENT.

The Legislature of the state of West Virginia hereby determines and finds that the advancing state of knowledge in mathematical, physical, and engineering sciences as applied in the practice of professional engineering has a critical impact on the lives, property, economy, security and the general health and welfare of our state and our citizens. Therefore, the Legislature declares that in order to protect public health, safety, welfare, property and the general public interest, the practice of professional engineering must be regulated and controlled in accordance with this article in order to insure that the privilege of practicing professional engineering shall only be entrusted to persons with necessary qualifications, good character, education, training, and experience. In furtherance of such intent and purpose of the Legislature, the practice of engineering is hereby declared a learned profession to be practiced and regulated as such and its practitioners in this state shall be held accountable to the state and members of the public by high professional standards in keeping with the ethics and practices of other learned professions in this state.

§30-13-2. DEFINITIONS.

(a) Unless the context in which used clearly requires a different meaning as used in this article:

(1) "Applicant" means any person making application for registration, whether original or renewal, under the provisions of this article.

(2) "Board" means the West Virginia state board of registration for professional engineers as provided for in this article.

(3) "Certificate of registration" means a license issued by the state granting its licensee the privilege of practicing professional engineering in accordance with the provisions of this article.

(4) "Current certificate of registration" means a certificate of registration issued pursuant to the provisions of this article or under the prior provisions of this article which certificate is and remains unexpired, unsuspended or unrevoked.

(5) "Practice of professional engineering" means performing or doing, or offering or attempting to do or perform any professional service or creative work such as consultation, investigation, evaluation, planning, design or inspection of construction for the purpose of assuring compliance with drawings and specifications, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work or projects, wherein the public welfare, or the safeguarding of life, health or property is concerned or involved, when such professional service requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, or engineering sciences to such services or creative work.

(6) "Professional engineer" means any person who by reason of his knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in the practice of professional engineering and holds a current certificate of registration.

(7) "Registrant" means any person registered under the provisions of this article.

§30-13-3. REGISTRATION REQUIRED TO PRACTICE PROFESSIONAL ENGINEERING; PROHIBITIONS AND RESTRICTIONS.

(a) From and after the effective date of this article, no person in this state who does not hold a current certificate of registration shall:

(1) Practice, continue to practice, offer or attempt to practice professional engineering or any branch or part thereof.

(2) Directly or indirectly, employ, use, cause to be used or make use of any of the following terms or any combinations, variations or abbreviations thereof as a professional, business or commercial identification, title, name, representation, claim, asset or means of advantage or benefit: "professional engineer," "licensed engineer," "registered professional engineer," "licensed professional engineer";

(3) Directly or indirectly, employ, use, cause to be used or make use of any letter, abbreviation, word, symbol, slogan, sign or any combinations or variations thereof, which in any manner whatsoever tends or is likely to create any impression with the public or any member thereof that any person is qualified or authorized to practice professional engineering; or

(4) Receive any fee or compensation or the promise of any fee or compensation for performing, offering or attempting to perform any service, work, act or thing which is any part of the practice of professional engineering as defined by this article.

(b) Nothing contained in this article shall under any circumstances whatever be construed as in any way affecting the laws relating to the practicing, licensing, certification or registration of architects, landscape architects and land surveyors.

§30-13-4. CONTINUATION OF BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS; MEMBERS, TERMS, MEETINGS, OFFICERS, OATH AND EXPENSES; GENERAL PROVISIONS.

There is hereby continued the West Virginia state board of registration for professional engineers created under prior provisions of this article. The board shall be composed of five professional engineers appointed by the governor by and with the advice and consent of the Senate. The members of the board as constituted under prior provisions of this article shall continue in office until the expiration of the term for which each was appointed, and as the terms of the present members shall expire appointments shall be made for terms of five years so as to have the term of one member expire each year. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified. No person may serve on the board for more than three consecutive full terms. Before entering upon the performance of his duty, each member shall take and subscribe to the oath prescribed by section five, article four of the constitution of this state. Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office shall be vacant and such appointment shall be made within sixty days of the occurrence of such vacancy. Any member may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

Each member of the board shall be a citizen of the United States and a resident of this state, and shall have been engaged in the practice of professional engineering for at least ten years, and shall have been in responsible charge of engineering work for at least five years. Each member of the board shall hold a current certificate of registration.

The board shall elect from its membership a president and a secretary who shall serve at the will and pleasure of the board. A majority of the board shall constitute a quorum and meetings shall be held at the call of the president or upon request of two members at such time and place

as designated in such call or request. In any event, the board shall meet at least once annually to conduct the examination hereinafter provided for and to transact such other business as may come before it. Members may be paid such reasonable compensation as the board may from time to time determine, and in addition may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties, which compensation and expenses shall be paid in accordance with the provisions of subsection (b), section five of this article.

§30-13-5. POWERS AND DUTIES OF BOARD; FUNDS OF BOARD.

- (a) The board shall:
- (1) Examine applicants and determine their eligibility to be registered as a professional engineer;
 - (2) Prepare or approve, administer, and grade appropriate written or written and oral examinations for applicants to ascertain whether an applicant is qualified as to the theory and practice of professional engineering;
 - (3) Determine the time and place for any examination and the passing score of such examination;
 - (4) Promulgate reasonable rules and regulations implementing the provisions of this article and the powers and duties conferred upon the board hereby, all of which reasonable rules and regulations shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code;
 - (5) Establish and promulgate, as a part of the rules and regulations, reasonable standards of conduct and ethics for professional engineers in keeping with the purposes and intent of this article;
 - (6) Issue, renew, deny, suspend or revoke a certificate of registration in accordance with the provisions of this article and, in accordance with the administrative procedures hereinafter provided, may review, affirm, reverse or modify its order with respect to any such issuance, renewal, denial, suspension or revocation;
 - (7) Investigate alleged violations of the provisions of this article, reasonable rules and regulations promulgated hereunder and final decisions of the board and take appropriate disciplinary action, including a written public or private reprimand, against any registrant for the violation thereof or institute appropriate legal action for the enforcement of the provisions of this article, reasonable rules and regulations promulgated hereunder and orders and final decisions of the board or take such disciplinary action and institute such legal action;
 - (8) Purchase or rent necessary office space, equipment and supplies and employ, direct, discharge and define the duties of full-time or part-time professional, clerical or other personnel as may be necessary to effectuate the provisions of this article;
 - (9) Keep accurate and complete records of its proceedings, certify the same as may be appropriate, prepare from time to time, a list showing the names and addresses of all registrants, and submit to the governor a report on the transactions of the board, including an accounting of all moneys received and disbursed;
 - (10) Take such other action as may be reasonably necessary or appropriate to effectuate the provisions of this article.
- (b) All moneys paid to the board shall be accepted by a person designated by the board and deposited by him with the treasurer of the state and credited to an account to be known as the "board of professional engineers." The compensation of and the reimbursement of all reasonable and necessary expenses actually incurred by the members of the board and all other costs and expenses incurred by the board in the administration of this article shall be paid from such fund, and no part of the state's general revenue fund shall be expended for this purpose.

§30-13-6. QUALIFICATIONS OF APPLICANTS; RECIPROCITY; APPLICATIONS; FEES.

(a) To be eligible for registration as a professional engineer, the applicant must:

- (1) Be at least eighteen years of age;
- (2) Be of good moral character;

(3) Not have been convicted of a felony in any court in this state or any federal court in this or any other state within ten years preceding the date of application for registration, which conviction remains unreversed; and not have been convicted of a felony in any court in this state or any federal court in this or any other state at any time if the offense for which he was convicted related to the practice of professional engineering, which conviction remains unreversed;

(4) Either (i) be a graduate of a school or college in an engineering curriculum approved by the board and have a specific record of an additional four years or more of experience in engineering work of a character satisfactory to the board indicating that the applicant is competent to practice engineering; or (ii) be a graduate of a school or college in a science curriculum approved by the board and have a specific record of an additional six years or more of experience in engineering work of a character satisfactory to the board indicating that the applicant is competent to practice engineering; or (iii) have a record of at least ten years of education and experience in engineering which in the opinion of the board is substantially equivalent to (i) or (ii) as set forth hereinabove; and

(5) Have passed the examination prescribed and administered by the board in accordance with the provisions of this article.

(b) The board may issue a certificate of registration as a professional engineer to any person who holds an unrevoked license or a certificate of registration issued to him by any state, territory, or possession of the United States: *Provided*, That the applicant's qualifications are in the opinion of the board equal to or greater than the requirements of this article and the rules and regulations established by the board.

(c) Any applicant for registration under the provisions of subsection (a) or (b) of this section shall submit an application therefor at such time, in such manner, on such forms and containing such information as the board may from time to time by reasonable rule and regulation prescribe. The registration fee for professional engineers shall be fifty dollars, twenty-five dollars of which shall accompany the application, the remaining twenty-five dollars to be paid upon issuance of certificate. Should the board deny the issuance of a certificate to any applicant, the initial fee deposited shall be retained. Applicants failing any portion of the examinations will be required to pay a fee not to exceed twenty-five dollars for each subsequent examination period for which he must appear.

§30-13-7. REGISTRATION; CERTIFICATE OF REGISTRATION; RENEWAL; RENEWAL FEE; EXPIRATION; SEAL.

Whenever the board finds that an applicant is eligible for registration under the requirements of this article, it shall forthwith issue to him a certificate of registration; and otherwise the board shall deny the same. The board shall prescribe the form of the certificate of registration. Certificates of registration shall expire on the thirtieth day of June of each year, but shall be renewable each year without examination upon application for renewal on a form prescribed by and filed with the board and payment to the board of an annual renewal fee in such amount as may be prescribed by the board not to exceed thirty dollars. The secretary of the board shall notify every registrant of the expiration date and the amount of the renewal fee for one year.

All certificates of registration not renewed are null and void but may be renewed within two years after expiration date for a maximum fee of fifty dollars. Any person who does not renew his certificate of registration during the two years after its expiration date shall not be

eligible for renewal as provided in this section but may submit an original application to the board as provided in this article.

Each registrant shall obtain a seal or stamp of a design authorized by the board, bearing his name and the legend "registered professional engineer, state of West Virginia," and such other words or figures as the board may prescribe. Plans, specifications, plats and reports issued by a registrant shall be stamped or sealed. It shall be unlawful for anyone to stamp or seal any document unless the registrant named thereon holds a current certificate of registration.

§30-13-8. EXEMPTIONS.

(a) The following persons shall be exempt from registration under the provisions of this article:

(1) Any employee of a person, partnership, corporation or other business entity which is engaged in the practice of professional engineering in conformity with the provisions of this article and any employee of a person exempted from registration by subsection (b) of this section: *Provided*, That such employee does not have final authority for the approval of, and the ultimate responsibility for, engineering designs, plans or specifications.

(2) Any regular full-time employee of a person, partnership, corporation or other business entity who is engaged solely and exclusively in performing services for such person, partnership, corporation, or other business entity, who is not required by any provision of law other than this article thirteen to be a registered professional engineer and whose services are performed on, or in connection with, property owned or leased by such person, partnership, corporation or other business entity, or in which such person, partnership, corporation or other business entity has an interest, estate or possessory right, and are not offered or made available to the public. This exemption includes the use of job title and personnel classifications by such persons, but no name, title or words may be used which tend to convey the impression that an unlicensed person is offering professional engineering services to the public.

(3) Officers and employees of the government of the United States while engaged within this state in the practice of professional engineering for such government.

(4) Any regular full-time employee of any investor-owned public utility, its affiliates or associated companies, while engaged solely in performing services which are not offered directly to the public, and which are performed in connection with or incidental to the products, systems or services of such investor-owned public utility, its affiliates or associated companies.

(b) A person who is not a resident of this state or who does not have an established place of business in this state and is currently registered or licensed as a professional engineer in his state of residency or in the state of his principal place of practice, may, without registration in this state, be granted permission by the board to practice professional engineering in this state on a specific project for the duration of such specific project. Such person seeking permission shall apply to the board in writing and pay a fee of fifty dollars: *Provided*, That such privilege to practice professional engineering in this state shall be confined to the terms of the written permit granted by the board and no other practice of professional engineering shall be allowed.

§30-13-9. APPLICATION OF ARTICLE TO PARTNERSHIPS, CORPORATIONS AND OTHER BUSINESS ENTITIES.

Partnerships, corporations or other business entities may engage in the practice of professional engineering in this state provided such practice is carried on by professional engineers registered in accordance with this article.

§30-13-10. SUSPENSION OR REVOCATION OF CERTIFICATE OF REGISTRATION; RESIGNATION.

(a) The board may at any time upon its own motion, and shall upon the verified written complaint of any person filed with the board, conduct an investigation to determine whether there are any grounds for the suspension or revocation of a certificate of registration issued under the provisions of this article or under the prior provisions of this article.

(b) The board may suspend or revoke any certificate of registration when it finds that the registrant has:

(1) Been convicted of a felony in any court in this state or any federal court in this or any other state within ten years preceding the effective date of such suspension or revocation, which conviction remains unreversed; or been convicted of a felony in any court in this state or any federal court in this or any other state at any time if the offense for which he was convicted related to the practice of professional engineering, which conviction remains unreversed;

(2) Obtained such certificate of registration by means of fraud or deceit;

(3) Been incompetent, grossly negligent or guilty of other malpractice or misconduct as defined by the board by reasonable rules and regulations;

(4) Failed or refused to comply with any provision of this article or any reasonable rule or regulation promulgated by the board hereunder or any order or final decision of the board; or

(5) Affixed his seal or stamp to any plans, plats, drawings, specifications, reports or other instruments of service which were not prepared by him or under his immediate and responsible supervision, or permitted his name to be used for the purpose of assisting any person to evade the provisions of this article.

(c) The board may also suspend or revoke any certificate of registration if it finds the existence of any grounds which would have justified the denial of the application for such certificate of registration at the time the original certificate of registration was granted.

(d) Any such suspension or revocation of a certificate of registration shall be for the period prescribed by the board in a written order of suspension or revocation.

(e) A person holding a certificate of registration issued by the board may voluntarily resign his registration by filing a verified petition with the board stating his desire to do so, and by surrendering therewith his certificate of registration; whereupon his name shall be deleted from the official roster.

§30-13-11. PROCEDURES FOR HEARING.

(a) Whenever the board shall deny an application for any original or renewal certificate of registration or shall suspend or revoke any such certificate of registration, it shall make and enter an order to that effect and serve a copy thereof on the applicant or registrant, as the case may be, by certified mail, return receipt requested. Such order shall state the grounds for the action taken and shall require that any certificate of registration suspended or revoked thereby shall be returned to the board by the holder thereof within twenty days after receipt of said copy of said order.

(b) Any person adversely affected by any such order shall be entitled to a hearing thereon (as to all issues not excluded from the definition of a "contested case" as set forth in article one, chapter twenty-nine-a of this code) if, within twenty days after receipt of a copy thereof, he files with the board a written demand for such hearing. A demand for hearing shall operate automatically to stay or suspend the execution of any order suspending or revoking a certificate of registration or denying an application for a renewal certificate of registration. The board may require the person demanding such hearing to give reasonable security for the costs thereof and if such person does not substantially prevail at such hearing such costs shall be assessed against him and may be collected by a civil action or other proper remedy.

eligible for renewal as provided in this section but may submit an original application to the board as provided in this article.

Each registrant shall obtain a seal or stamp of a design authorized by the board, bearing his name and the legend "registered professional engineer, state of West Virginia," and such other words or figures as the board may prescribe. Plans, specifications, plats and reports issued by a registrant shall be stamped or sealed. It shall be unlawful for anyone to stamp or seal any document unless the registrant named thereon holds a current certificate of registration.

§30-13-8. EXEMPTIONS.

(a) The following persons shall be exempt from registration under the provisions of this article:

(1) Any employee of a person, partnership, corporation or other business entity which is engaged in the practice of professional engineering in conformity with the provisions of this article and any employee of a person exempted from registration by subsection (b) of this section: *Provided*, That such employee does not have final authority for the approval of, and the ultimate responsibility for, engineering designs, plans or specifications.

(2) Any regular full-time employee of a person, partnership, corporation or other business entity who is engaged solely and exclusively in performing services for such person, partnership, corporation, or other business entity, who is not required by any provision of law other than this article thirteen to be a registered professional engineer and whose services are performed on, or in connection with, property owned or leased by such person, partnership, corporation or other business entity, or in which such person, partnership, corporation or other business entity has an interest, estate or possessory right, and are not offered or made available to the public. This exemption includes the use of job title and personnel classifications by such persons, but no name, title or words may be used which tend to convey the impression that an unlicensed person is offering professional engineering services to the public.

(3) Officers and employees of the government of the United States while engaged within this state in the practice of professional engineering for such government.

(4) Any regular full-time employee of any investor-owned public utility, its affiliates or associated companies, while engaged solely in performing services which are not offered directly to the public, and which are performed in connection with or incidental to the products, systems or services of such investor-owned public utility, its affiliates or associated companies.

(b) A person who is not a resident of this state or who does not have an established place of business in this state and is currently registered or licensed as a professional engineer in his state of residency or in the state of his principal place of practice, may, without registration in this state, be granted permission by the board to practice professional engineering in this state on a specific project for the duration of such specific project. Such person seeking permission shall apply to the board in writing and pay a fee of fifty dollars: *Provided*, That such privilege to practice professional engineering in this state shall be confined to the terms of the written permit granted by the board and no other practice of professional engineering shall be allowed.

§30-13-9. APPLICATION OF ARTICLE TO PARTNERSHIPS, CORPORATIONS AND OTHER BUSINESS ENTITIES.

Partnerships, corporations or other business entities may engage in the practice of professional engineering in this state provided such practice is carried on by professional engineers registered in accordance with this article.

(c) Upon receipt of a written demand for such hearing, the board shall set a time and place therefor not less than ten and not more than thirty days thereafter. Any scheduled hearing may be continued by the board upon its own motion or for good cause shown by the person demanding the hearing.

(d) All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in this subsection.

(e) Any such hearing shall be conducted by a quorum of the board. For the purpose of conducting any such hearing, any member of the board shall have the power and authority to issue subpoenas and subpoenas duces tecum which shall be issued and served within the time, for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.

(f) At any such hearing the person who demanded the same may represent himself or be represented by an attorney at law admitted to practice before any circuit court of this state. Upon request by the board, it shall be represented at any such hearing by the attorney general or his assistants without additional compensation.

(g) After any such hearing and consideration of all of the testimony, evidence and record in the case, the board shall render its decision in writing. The written decision of the board shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and a copy of such decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the person demanding such hearing, and his attorney of record, if any.

(h) The decision of the board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of section twelve of this article.

§30-13-12. JUDICIAL REVIEW; APPEAL TO SUPREME COURT OF APPEALS; LEGAL REPRESENTATION FOR BOARD.

Any person adversely affected by a decision of the board rendered after a hearing held in accordance with the provisions of section of this article shall be entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such judicial review with like effect as if the provisions of said section four were set forth in this section.

The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

Legal counsel and services for the board in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any circuit court by the prosecuting attorney of the county as well, all without additional compensation.

§30-13-13. ACTIONS TO ENJOIN VIOLATIONS.

Whenever it appears to the board that any person has been or is violating or is about to violate any provision of this article, any reasonable rule and regulation promulgated hereunder or any order or final decision of the board, the board may apply in the name of the state to the circuit court of the county in which the violation or violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such

person and any other persons who have been, are or are about to be, involved in any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of section fourteen of this article.

Upon application by the board, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article, the reasonable rules and regulations promulgated hereunder and all orders and final decisions of the board. The court may issue a preliminary injunction in any case pending a decision on the merits of any application filed.

The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

The board shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit court by the prosecuting attorneys of the several counties as well, all without additional compensation.

§30-13-14. OFFENSES AND PENALTIES.

Any person who violates any provision of this article, any of the reasonable rules and regulations promulgated hereunder or any order or any final decision of the board shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned in the county jail not more than three months, or both fined and imprisoned.

Amendment to Law Governing the Incorporation of Engineering Corporations

(Passed March 8, 1947; in effect from passage.)

AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section, number six-a relating to engineering corporations.

Be it enacted by the Legislature of West Virginia:

The article one, chapter thirty-one of the Code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section, numbered six-a, to read as follows:

Section 6-a. Engineering Corporations—After the effective date of this act, no corporation shall be chartered in this state under any name which includes the word "engineer," "engineers," "engineering" or any combination of the same, unless the purpose of the corporation is to practice professional engineering as defined by chapter thirty, article thirteen of the code of West Virginia, as amended, and one or more of the incorporators is a registered professional engineer as therein defined.

NOTE: In dealing with Chapter 31, Article 1, Section 6-a above, Sections 11 and 2 of Chapter 30, Article 13 must be considered.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
W. Va. State Board of Registration for Professional Engineers

Chapter 30-13
Series I
(1966 as amended)

Subject: Matters Pertaining to
Rules and Regulations for
Professional Engineers in West Virginia

Section 1. GENERAL

1.01 **Statutory Authority.** These rules and regulations are promulgated and issued under the authority granted in Chapter 30, Article 1, Section 5, and Chapter 29A, Article 3, Section 1 of the West Virginia Code of 1931, as amended.

1.02 **Location of Office.** The office of the West Virginia State Board of Registration for Professional Engineers is located at Room 411, 1800 East Washington Street, Charleston, West Virginia 25305.

Section 2. DEFINITIONS

2.01 "Code" means the official code of West Virginia, as amended.

2.02 "EIT" means Engineer in Training.

2.03 "NCEE" means National Council of Engineering Examiners.

2.04 "PE" means Professional Engineer

Section 3. APPLICATIONS

3.01 **Registration as a Professional Engineer.** Applicants for admission to the examination in the Principles and Practice of Engineering and applicants for registration by comity must use the standard application form for registration as a Professional Engineer. Holders of a current Council Record of the National Council of Engineering Examiners, who will have the Council Record forwarded directly from National Council, need fill in only Items 1, 2, 7, 8 and 9 of the application form.

3.02 **Certification as an Engineer in Training.** Applicants for admission to the examination in only the Fundamentals of Engineering should use the abbreviated application form for certification as an Engineer-in-Training.

3.03 **Residence Requirements.** The Board will accept applications for PE registration from any person who has previously been certified by this Board as an EIT and grant registration upon satisfactory completion of the required examination, regardless of his then place of domicile, provided that not more than 12 years have elapsed since the date of original issuance of the EIT certificate.

The Board will not otherwise accept applications from any nonresident person who has not been previously registered in the state of his residence or state of principal practice except as otherwise stated in Rule 5.04.

Section 4. EXAMINATION

4.01 Applicants for registration are required to pass written examinations in conformance with the statutory provisions of the Code and the rules and regulations promulgated by the

Board, except as otherwise stated herein.

4.02 **Application Dates.** Applications shall be in the Board office eight weeks prior to the examination date.

4.03 **Examination Schedule.** EIT and PE examinations will be given in the spring and fall in Charleston, Morgantown or any other location designated by the Board. The examinations will be in two eight-hour sessions.

4.04 **Examination Content.** One day of the examination will cover the Fundamentals of Engineering. The other day of the examination will cover the Principles and Practice of Engineering in the branch of engineering requested by the applicant or decreed by the Board.

4.05 **Branch of Engineering.** Examinations will be given in the following branches:

Agricultural	Manufacturing
Ceramic	Mechanical
Chemical	Mining
Civil	Nuclear
Community Planning	Petroleum
Electrical	Sanitary
Industrial	Structural

Successful applicants will be registered as a professional engineer without reference to branch in either their certificate or seal, but the branch in which they were examined will appear in the official roster.

4.06 **Passing Grades.** The passing Board grade for each examination shall be 70%.

4.07 **Readmission to Examination.** An applicant who fails the examination may be readmitted as provided in Section 7.03; Provided, That after four failures the applicant must wait two years and present satisfactory evidence of additional study before being permitted to reapply.

4.08 **Graduates of Board Approved Curricula.** Graduates of Board approved engineering curricula will be admitted to the Fundamentals of Engineering examination immediately preceding their graduation or at any time thereafter and may be certified as an EIT upon successful completion of the examination.

These graduates may be admitted to the examination in the Principles and Practice of Engineering after four years of Board approved engineering experience following their graduation.

The examination in the Fundamentals must be taken prior to or at the same session with the examination in the Principles and Practice, but they may be passed independently.

Under unusual circumstances, applicants over 40 years of age with 15 years of engineering experience satisfactory to the Board, may be excused from the eight-hour written examination in the Fundamentals of Engineering and gain registration by successfully passing an eight-hour written examination in the Principles and Practice of Engineering. Registration under this provision may not be recognized by other Boards.

Under unusual circumstances, applicants over 50 years of age with 20 years of engineering experience satisfactory to the Board, may be registered after passing an oral and/or short written examination. Registration under this provision may not be recognized by other Boards.

4.09 **Graduates of Board Approved Allied Science Curricula.** Graduates of Board approved allied science curricula may be admitted to the Fundamentals of Engineering examination immediately preceding their graduation or at any time thereafter but will not be granted EIT status until they have passed the examination and completed six years of engineering practice under the supervision of registered Professional Engineers who can attest to the engineering nature of the work.

These applicants may be admitted to the examination in the Principles and Practice of Engineering after they have been certified as an EIT. Certification under this section may not be recognized by other engineering registration boards.

Four year degrees in Engineering Technology will be treated as an allied science degree.

4.10 Applicants Without a Four Year Engineering or Allied Science Degree. Applicants without a four year college degree in engineering or an allied science will be required to present satisfactory evidence of ten years of education and experience in engineering under the supervision of registered Professional Engineers who can attest to the engineering nature of the work before admission to the examination in the Fundamentals of Engineering. The Board may request that the supervising registered Professional Engineers furnish affidavits testifying to the nature and extent of the engineering experience of the applicant. The Board may require a personal interview with the applicant before admission to the examination in the Fundamentals of Engineering.

These applicants may be admitted to the examination in the Principles and Practice of Engineering after they have been certified as an EIT.

Section 5. OTHER REQUIREMENTS FOR REGISTRATION

5.01 References. Applicants applying for admission to the examination in the Principles and Practice of Engineering will be required to submit the names of three professional and two character references.

5.02 Transcript of Grades. The applicant shall have transcripts of grades mailed direct from the school or college to the Board with the signature of the proper school officer and the embossed seal of the school.

5.03 Registration by Comity. The Board evaluates the requirements which led to the granting of prior registration, and if they are equivalent to that required by West Virginia at that time, registration by comity may be granted.

All applicants have been required to pass a sixteen hour written examination since January 1, 1953, except as specifically exempt under Section 4.08.

5.04 Federal Government Personnel. Applicants for registration who are members or employees of certain governmental agencies of this nation, subject to frequent transfers in the line of duty, and who may not have permanent home addresses, will be treated as West Virginia residents if their assignments at the time of application include duties in this state.

5.05 Experience Credit for Graduate Work. Additional experience credit may be granted for postgraduate education if, in the opinion of the Board, substantial research or teaching experience was involved.

Section 6. SEAL

6.01 Each registrant, upon notification of registration, is authorized to obtain an official seal of the size and design prescribed by the Board. The seal shall include the following information:

State of Registration
Registrant's Name
Registrant's Registration Number
Contain the words "Registered Professional Engineer"

The seal may be embossed or a rubber stamp.

6.02 The official seal shall be affixed immediately above the signature of the person preparing or responsible therefor in the following cases:

- A. Plans or documents filed or offered for filing with any public body or agency.
- B. Plans, specifications, designs, sketches, drawings, surveys, reports, etc. that may be or may become a part of legal archives.
- C. Plans and documents formally submitted to contractors and clients.
- D. The first sheet of any bound documents, however, said first sheet must bear a statement as to the number of bound sheets.

E. Revisions to documents must be numbered, dated and initialed by the person whose seal appears on the drawings.

F. In the case of multiple sealings, the first or title page shall be sealed and signed by all involved.

G. In the case of a temporary permit issued to a registrant of another state, the registrant shall use his state of registration seal and shall affix his signature and temporary permit to all his work.

6.03 Rubber stamp seal facsimilies may be used when properly dated and initialed where necessary for document duplication.

6.04 Each registrant shall be held responsible for the proper use of his seal.

Section 7. FEES

7.01 The annual renewal fee will be set by the Board.

7.02 The penalty for late renewal will be 10% of the renewal fee for each month the certificate has lapsed up to six months, after which the renewal fee will be \$50, up to twenty-four months, at which time the certificate shall expire.

7.03 The fee for retaking a failed examination will be set by the Board to cover the cost of the graded examination from the NCEE.

7.04 The fee for the replacement of a valid certificate of registration shall be ten dollars.

Section 8. DISCIPLINARY PROCEEDINGS

8.01 **Complaints.** The Board may receive and investigate complaints pertaining to professional engineers and the practice of engineering and make findings thereon.

8.02 **Revocation or Suspension.** The Board may suspend or revoke the certificate or registration of any professional engineer registered hereunder who fails to conform to rules of professional conduct as set forth below.

8.03 **Professional Conduct.** In order to safeguard the life, health, property and welfare of the public, and to establish and maintain a high standard of integrity, skills, and practice in the profession of engineering, the following Rules of Professional Conduct shall be binding upon every person holding a certificate of registration as a professional engineer and on all partnerships or corporations or other legal entities authorized to offer or perform engineering services in this state.

All persons registered in the State of West Virginia are charged with having knowledge of the existence of these Rules of Professional Conduct, and shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering is a privilege, as opposed to a right, and the registrant shall be forthright and candid in his statements or written response to the Board or its representatives on matters pertaining to professional conduct.

THE PROFESSIONAL ENGINEER SHALL:

A. CONDUCT HIS PRACTICE IN ORDER TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

He shall at all times recognize his primary obligation to protect the safety, health, and welfare of the public in the performance of his professional duties. If his engineering judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, he shall inform his employer of the possible consequences and notify such other proper authority of the situation, as may be appropriate.

B. PERFORM HIS SERVICES ONLY IN AREAS OF HIS COMPETENCE.

(1) He shall undertake to perform engineering assignments only when qualified by education or experience in the specific technical field of professional engineering involved.

(2) He may accept an assignment requiring education or experience outside of his own field of competence, but only to the extent that his services are restricted to those phases of the project in which he is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees.

(3) He shall not affix his signature and/or seal to any engineering plan or document dealing with subject matter to which he lacks competence by virtue of education or experience, nor to any such plan or document not prepared under his direct supervisory control.

(4) In the event a question arises as to the competence of a professional engineer to perform an engineering assignment in a specific technical field of engineering which cannot be otherwise resolved to the Board's satisfaction, the Board, either upon request of the professional engineer or by its own volition, may require him to submit to an appropriate examination as determined by the Board.

C. ISSUE STATEMENTS ONLY IN AN OBJECTIVE AND TRUTHFUL MANNER.

(1) He shall be completely objective and truthful in all professional reports, statements, or testimony. He shall include all relevant and pertinent information in such reports, statements or testimony.

(2) He shall, when serving as an expert or technical witness before any court, commission, or other tribunal, express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony.

(3) He shall issue no statements, criticisms, or arguments on engineering matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party or parties on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the instant matters.

D. SHALL AVOID CONFLICT OF INTEREST.

(1) He shall conscientiously avoid conflict of interest with his employer or client, but, when unavoidable, he shall forthwith disclose the circumstances to his employer or client.

(2) He shall avoid all known conflict of interest with his employer or client and shall promptly inform his employer or client of any business association, interests, or circumstances which could influence his judgment or the quality of his services.

(3) He shall not accept compensation, financial or otherwise, for more than one party for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

(4) He shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.

(5) He shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with his client or employer in connection with work for which he is responsible.

(6) When in public service as a member, advisor, or employee of a governmental body or department, he shall not participate in considerations or actions with respect to services provided by him or his organization in private engineering practices.

(7) He shall not solicit or accept an engineering contract from a governmental body on which a principal officer of his organization serves as a member.

E. SOLICIT OR ACCEPT WORK ONLY ON THE BASIS OF HIS QUALIFICATIONS.

(1) He shall not offer to pay, either directly or indirectly, any commission, political contribution, or a gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.

(2) He shall seek professional employment on the basis of qualification and competence for proper accomplishment of the work. He shall not solicit or submit proposals for professional services on the basis of competitive bidding. Competitive bidding is defined as the formal or informal submission, or receipt, of verbal or written estimates of cost or proposals in terms of dollars, man-days of work required, percentage of construction cost, or any other measure of compensation whereby the prospective client may compare engineering services on a price basis prior to the time that one engineer or one engineering organization, has been selected for negotiations; provided, however, the submission and discussion of data published by professional engineering societies is not considered to constitute competitive bidding.

(3) He shall not falsify or permit misrepresentation of his, or his associates', academic or professional qualifications. He shall not misrepresent or exaggerate his degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or his or their past accomplishments with the intent and purpose of enhancing his qualifications and his work.

F. ASSOCIATE ONLY WITH REPUTABLE PERSONS OR ORGANIZATIONS.

(1) He shall not knowingly associate with or permit the use of his name or firm in a business venture by any person or firm which he knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

(2) If he has knowledge or reason to believe that another person or firm may be in violation of any of the provisions or of Chapter 30, Article 13 of the West Virginia Code of 1931, as amended, he shall present such information to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board.

Conviction of a felony without restoration of civil rights, or the revocation or suspension of a professional engineer's license by another jurisdiction, if for a cause which in the State of West Virginia would constitute a violation of Chapter 30, Article 13, of the West Virginia Code of 1931, as amended, or of these rules and regulations, shall be grounds for a charge of violation of these rules.

A certified record in such cases shall be conclusive evidence thereof.

8.04 The Board shall automatically revoke the certificate, license or registration of any person who while under suspension continues to practice in violation of such suspension.

8.05 Invalidation of one or more of the provisions of these rules and regulations by a court of competent jurisdiction shall not operate to invalidate the remainder of these rules and regulations.

REGISTRATION IN OTHER STATES

Every state requires registration of the engineer who engages in professional practice within its borders, and the registered engineer who desires to accept employment in another state should know how to continue his practice in a legal manner. Most states permit a registrant of another state to practice temporarily in their state if he has only an occasional assignment. The limit of temporary practice without permanent registration varies among the states; in West Virginia the provision is for an aggregate of not more than sixty calendar days for a single engagement in any given year.

It is the policy of the West Virginia Board to grant registration by comity to registrants of other states provided they secured their registration elsewhere by meeting standards equivalent to those specified in West Virginia at the time of their prior registration. Most State Boards follow a similar procedure. To grant comity registration on the basis of standards lower than the citizens of our registration on the basis of standards lower than the citizens of our own state would have been required to meet at the time of original registration would be discriminating against our own citizens.

The West Virginia Board cannot guarantee that a West Virginia registrant will be granted a license elsewhere merely because he is registered in this state, but if he secured his West Virginia license by passing a sixteen hour written examination he will usually be accepted in other states without further written examination.

A West Virginia registrant desiring registration in another state should write to the Board of the state in which he is interested requesting an application blank and instructions. After he has filed his application with the out-of-state Board, the West Virginia Board will be contacted by the other State Board to verify his record.