

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED

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OFFICE OF THE SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: State Board of Registration for Professional Engineers TITLE NUMBER: 7

CITE AUTHORITY West Virginia Code - Chapter 30-1-5

AMENDMENT TO AN EXISTING RULE: YES x NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Regulations Governing the West Virginia Board of Registration for Professional Engineers

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Signature of Stephen E. Thomas

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Regulations Governing the West Virginia Board of Registration
for Professional Engineers

Type of Rule: Legislative Interpretive Procedural

Agency State Board of Registration Address 608 Union Building
for Professional Engineers Charleston, WV 25301

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

The only change in fees in these rule changes is an increase from \$50 to \$60 for the PE Examination, and an increase from \$60 to \$70 for a PE re-examination. These increases reflect the increased charge from NCEES for supplying and grading these examinations beginning in 1991. Therefore, there will be no increase cost to the board or to the state.

3. Objectives of these rules:

The objectives of these rules are to:

1. Better classify and reorganize the legislative rules,
2. Increase the examination fee for the PE exam to reflect the increase in cost,
3. Replace the Code of Conduct with the new NCEES model Code of Conduct, and
4. Redefine and clarify some of the present rules.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

Those people taking the PE examination or re-examination will have an increased cost of \$10.

C. Economic Impact on Citizens/Public at Large.

None

Date: August 9, 1990

Signature of Agency Head or Authorized Representative

Stafford F. Thurb

DATE: September 28, 1990
TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM: State Board of Registration for Professional Engineers

LEGISLATIVE RULE TITLE:

1. Authorizing statute(s) citation West Virginia Code Chapter 30, Article 1, Section 5
2. a. Date filed in State Register with Notice of Hearing:
August 10, 1990
- b. What other notice, including advertising, did you give of the hearing?
None. Did not use hearing, but 30-day comment period.
- c. Date of hearing (s): N/A
- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached _____ No comments received X
- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)
October 1, 1990
- f. Name and phone number of agency person to contact for additional information:
Stafford E. Thornton, Secretary
(304) 442-3162

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

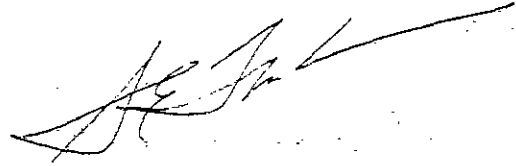
N/A

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____



TITLE 7
LEGISLATIVE RULES
WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

FILED
AUG 19 1990

SERIES 1
REGULATIONS GOVERNING THE WEST VIRGINIA BOARD
OF REGISTRATION FOR PROFESSIONAL ENGINEERS

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.

§7-1-1. GENERAL.

1.1. Scope. - These legislative rules govern the licensing of professional engineers and the operation of the West Virginia Board of Registration.

1.2. Authority. - W. Va. Code §30-13 et seq.

1.3. Filing Date. - August 11, 1990

1.4. Effective Date. - July 1, 1991

1.5. Repeal of former rule. This legislative rule repeals and replaces WV 7CSRI "Regulations Governing The West Virginia Board of Registration for Professional Engineers" filed April 7, 1988, and effective date April 7, 1988.

§7-1-2. DEFINITIONS.

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

2.2. "EI" means Engineering Intern.

2.3. "NCEES" means National Council of Examiners for Engineering and Surveying.

2.4. "PE" means Professional Engineer.

2.5. "ABET" means the Accreditation Board for Engineering and Technology.

§7-1-3. APPLICATIONS.

3.1. Registration as a professional engineer. - Applicants for admission to the examination in the PE examination and applicants for registration by comity must complete the standard application form for registration as a professional engineer as furnished by the board. Holders of a current NCEES record, and who have that record forwarded directly to the board from NCEES, will need to fill in only items 1,2,7,8, and 9 of the standard application form.

3.2. Certification as an engineer intern. - Applicants for admission to the EI examination shall complete the applicable form as specified by the board.

3.3. Applications dates. - Applications for the fundamentals of engineering examination must be received in the board office sixty (60) days prior to the date the examination is schedule to be offered. Applications for the PE examination must be received in the board office ninety (90) days prior to the examination date.

3.4 References. - Applicants for admission to the PE examination must submit the names of three (3) professional and two (2) character references. The professional references must be professional engineers registered with a NCEES member board.

§7-1-4 EXAMINATIONS.

4.1. Applicants for registration shall be 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 stated herein.

4.2. Examination schedule. - The EI and PE examinations required for EI certification and PE registration will be offered in the spring and fall in locations designated by the board.

4.3. Examination content. - The EI examination will be the Fundamentals of Engineering Examination and the PE examination will be the Principles and Practice of Engineering Examination. These examinations are prepared, furnished, and graded by NCEES.

4.4. Branch of engineering. - PE examinations will be offered in those branches in which examinations are prepared by NCEES. All branches may not be available at both the spring and fall sessions. Successful applicants will be registered as professional engineers without reference to branch in either their certificate or seal.

4.5. The EI examination must be taken and passed prior to taking the PE examination unless the EI examination requirement is waived by the board.

4.6. Appeals. - An applicant may appeal a failing grade on either the EI or PE examination, however, the appeal must be made within sixty (60) days of the date the examination results are mailed from the board office.

§7-1-5. ADMISSION AND ACCEPTANCE.

5.1. Residence requirements. - The board will accept applications for PE registration from any person who has previously been certified by the board as an EI and will grant registration upon the satisfactory completion of the PE examination, regardless of his place of domicile: Provided, that not more than twelve (12) years has lapsed since the date of the original issuance of the EI certificate.

The board will only accept applications from non-West Virginia residents who are currently registered in the state of his residence or state of his principal practice except as otherwise stated in Rule 7.3.

5.2. Graduates of board approved engineering curricula. - Students enrolled in board approved engineering curricula will be admitted to the EI examination immediately preceding their graduation or any time thereafter. These graduates will be admitted to the PE examination after four (4) years of board approved engineering experience following their graduation.

A graduate of a board approved engineering curriculum, with a specific record of twenty (20) years or more of progressive experience on engineering projects and of a grade and character which indicates to the board that the applicant is competent to practice engineering shall be admitted to the PE examination without being required to take the EI examination. Registration under this provision may not be recognized by other states.

Under unusual circumstances, applicants over fifty (50) years of age with twenty-five (25) years of engineering experience and fifteen (15) years in responsible charge, may be registered after passing an oral and/or short written examination, and having a personal interview with the board. Registration by this procedure may not be recognized by other states.

5.3. Graduates of board approved allied science curricula. - Graduates of board approved allied science curricula may be admitted to the EI examination after presenting evidence of two (2) years of engineering experience under the direct supervision of professional engineers.

These graduates will be admitted to the PE examination after they have completed an additional four (4) years of engineering experience under the direct supervision of professional engineers and may be certified as an EI upon successful completion of the examination.

The required experience must be certified to the board by the supervising professional engineers giving the character and nature of the work performed in detail.

5.4. Applicants without board approved degrees.- Applicants without a four (4) year college degree in engineering or allied science that is approved by the board will be required to present satisfactory evidence of ten (10) years of education and experience in engineering under the direct supervision of professional engineers prior to admission to the EI examination. The experience must be certified by the supervising professional engineers giving the character and nature of the work performed in detail. The board may require a personal interview with the applicant prior to admission to the examination.

These applicants may be admitted to the PE examination immediately upon passing the EI examination.

5.5. Readmission to examination. - An applicant who fails an examination may be readmitted to the subsequent examination provided (a) that the applicant has no appeal of a previous failure pending before the board, or (b) that after four (4) failures the applicant must wait two (2) years and present satisfactory evidence of additional study before being permitted to reapply.

S7-1-6. EDUCATION.

6.1. Board approved engineering programs.- Engineering programs that hold accreditation from the Engineering Accreditation Commission of ABET are board approved engineering curricula. Likewise, those programs accredited by the Canadian Engineering Accreditation Board are board approved curricula.

6.2 Board approved allied science programs. - Bachelor of Technology programs that hold accreditation from the Technology Accreditation Commission of ABET are board approved allied science curricula. Non-accredited technology programs are not board approved. All other science curricula will be judged on their individual merits by the board at the time of application.

6.3 Experience credit for graduate education. - One (1) year of engineering experience will be granted for the completion of a board approved engineering graduate program, after the completion of a board approved engineering program or a board approved allied science program. However, four (4) years of experience can not be attained in less than forty-eight (48) months after receiving an

approved engineering degree. Only one (1) year of engineering experience may be earned through additional education.

§7-1-7. OTHER REQUIREMENTS FOR REGISTRATION.

7.1. Transcript of grades. - The applicant shall have transcripts of all college grades mailed directly from the school or college to the board with the signature of the proper school officer and the embossed seal of the school.

7.2. Registration by comity. - The board shall evaluate the requirements which led to the granting of registration in another state, and if those requirements were equivalent to those required by West Virginia at that time, registration by comity may be granted.

All applicants for registration by comity will be required to have passed sixteen (16) hours of written examination unless specifically exempt under section 5.2.

7.3. Federal government personnel. - Applicants for registration who are members or employees of 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 that time of application include duties in this state.

7.4 State government personnel. - Employees of the State of West Virginia; all of its departments, agencies, and subdivisions, including cities and counties are specifically not exempt from the provisions of §30-13. No such employee shall be given or use the title "engineer" as specified in §30-13-3. The terms acting, interim, or any variation used with the title "engineer" is not acceptable. Non-licensed persons may only practice engineering as a public employee as specified in §30-13-8-a-1.

§7-1-8. SEAL.

8.1 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 be circular in shape and contain the following information:

- (a) "State of West Virginia"
- (b) Registrant's name
- (c) Registrant's registration number
- (d) "Registered Professional Engineer."

This seal may be either a rubber stamp or one that embosses.

8.2. The official seal shall be affixed immediately above the signature of the registrant who prepared or was responsible for preparing the following:

(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 or documentation.

(c) Plans, specifications, and documents formally submitted to contractors and clients.

(d) The first sheet of any bound document, however, said first sheet must bear a statement as to the number of bound sheets.

(e) Revisions to any above cited documents must be numbered, dated, and initialed by the person whose seal appears on the original document.

(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 his temporary permit number to all his work as specified above.

8.3. Each registrant is solely responsible for the use of his seal. Only work that is prepared by the registrant or work that is prepared under his direct supervision shall bear the seal of the registrant.

8.4. Electronic reproduction of the seal is authorized, however, the resulting facsimile must meet the specifications of this regulation and in no way lessens the registrants responsibility for the improper use of his seal on work not prepared either by the registrant or under his direct supervision.

8.5 It shall be the responsibility of each registrant to report the loss or theft of his seal to the board as soon as practical after such loss or theft.

\$7-1-9. FEES.

9.1. The fees for the various board services are as follows:

Engineering Intern		Professional Engineer	
Application fee	- \$15	Application fee	- \$25
Examination fee	- \$20	Examination fee	- \$60
Re-examination fee	- \$25	Re-examination fee	- \$70
		Initial registration fee	- \$20

Examination Appeals Handling Fee - \$10

All fees are due and must be paid prior to the services being performed.

9.2 The penalty for late renewal will be ten percent (10%) of the renewal fee for each month that has lapsed up to six (6) months, after which the renewal fee will be forty-five dollars (\$45.00) for up to twenty-four (24) months. After twenty-four (24) months, the registration is canceled and the party must reapply.

9.3 The fee for replacement of a valid certificate of registration shall be ten dollars (\$10).

9.4 The cost of the biennial roster will be set by the board.

\$7-1-10. DISCIPLINARY PROCEEDINGS.

10.1. Complaints. - The board may receive and investigate complaints pertaining to professional engineers and the practice of engineering and make findings thereon. All complaints lodged with the board shall be on the forms provided for such complaints and must be signed by the complainant.

10.2. Revocation or suspension. - The board may suspend or revoke the certificate or registration of any professional engineer who fails to conform to the Rules of Professional Conduct as set forth in Rule 10.3.

10.3. Rules of Professional Conduct. - To comply with the purpose of the West Virginia State Board of Registration Law for professional engineers, §30-13 which is to safeguard life, health and property, to promote the public welfare, and to maintain a high standard of integrity and practice, the West Virginia State Board of Registration for professional engineers has developed the following Rules of Professional Conduct. These rules shall be binding on every person holding a certificate of registration to offer or perform engineering services in this state. All persons registered under (§30-13) are required to be familiar with the Registration Statute and these rules. The Rules of Professional Conduct delineate specific obligations the registrant must meet.

In addition, each registrant is charged with the responsibility of adhering to standards of highest ethical and moral conduct in all aspects of the practice of professional engineering.

The practice of professional engineering is a privilege, as opposed to a right. All registrants shall exercise their privilege of practicing by performing services only in the areas of their competence according to current standards of technical competence.

Registrants shall recognize their responsibility to the public and shall represent themselves before the public only in an objective and truthful manner.

They shall avoid conflicts of interest and faithfully serve the legitimate interests of their employers, clients, and customers within the limits defined by these rules. Their professional reputation shall be built on the merit of their services and they shall not compete unfairly with others.

REGISTRANT'S OBLIGATION TO SOCIETY

(a) Registrants, in the performance of their services for clients, employers and customers, shall be cognizant that their first and foremost responsibility is to the public welfare.

(b) Registrants shall approve and seal only those design documents and surveys that conform to accepted engineering standards and safeguard the life, health, property and welfare of the public.

(c) Registrants shall notify their employer or client and such other authority as may be appropriate when their professional judgment is overruled under circumstances where the life, health, property, welfare of the public is endangered.

(d) Registrants shall be objective and truthful in professional reports, statements or testimony. They shall include all relevant and pertinent information in such reports, statements or testimony.

(e) Registrants shall express a professional opinion publicly only when it is founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

(f) Registrants shall issue no statements, criticisms or arguments on technical matters which are inspired or paid for by interested parties, unless they explicitly identify the interested parties on whose behalf they are speaking, and reveal any interest they have in the matters.

(g) Registrants shall not permit the use of their name or firm name by, nor associate in business ventures with, any person or firm which is engaging in fraudulent or dishonest business or professional practices.

(h) Registrants having knowledge of possible violations of any of these Rules of Professional Conduct shall provide the board information and assistance necessary to the final determination of such violation.

REGISTRANT'S OBLIGATION TO EMPLOYER AND CLIENTS

(a) Registrants shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or involved.

(b) Registrants shall not affix their signatures or seals to any plans or documents dealing with subject matter, in which they lack competence, nor to any such plan or document not prepared under their direct control and personal supervision.

(c) Registrants may accept assignments for coordination of an entire project, provided that each design segment is signed and sealed by the registrant responsible for preparation of that design segment.

(d) Registrants shall not reveal facts, data or information obtained in a professional capacity without the prior consent of the client or employer except as authorized or required by law.

(e) Registrants shall not solicit or accept financial or other valuable consideration, directly or indirectly, from contractors, their agents, or other parties in connection with work for employers or clients.

(f) Registrants shall make full prior disclosures to their employers or clients of potential conflicts of interest or other circumstances which could influence or appear to influence their judgment or the quality of their service.

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

(h) Registrants shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member. Conversely, registrants serving as members, advisors, or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to

professional services offered or provided by said concern to the governmental body which they serve.

REGISTRANT'S OBLIGATION TO OTHER REGISTRANTS

(a) Registrants shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in prior assignments nor the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments.

(b) Registrants shall not offer, give, solicit or receive, either directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

(c) Registrants shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other registrants, nor indiscriminately criticize other registrants' work.

10.4. 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.

10.5 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.

10.6 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 article thirteen, chapter thirty 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.

10.7 If a registrant has knowledge or reason to believe that another person or firm may be in violation of any of the provisions of article thirteen, chapter thirty 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.

Ann Hicks
Charleston
Executive Director

Frank L. Gaddy, P.E.
Huntington
President
Dr. Kenneth H. Means, P.E.
Morgantown
Robert B. Scott, P.E.
Elkins
Stafford E. Thornton, P.E.
Montgomery
Secretary
Monroe A. Zicherman, P.E.
Vienna

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS



608 Union Building
Charleston, WV 25301
TELEPHONE 348-3554

SUMMARY OF RULE CHANGES

1. Reorganizes the headings and numbering of the rules to make them easier to use.
2. Changes the Code of Conduct to the NCEES Model Code.
3. Increases the PE examination fee by \$10 to reflect the increased cost to the Board from NCEES.
4. Redefines some of the existing rules to avoid misunderstandings.
5. Authorizes electronic sealing (use of CADD).

A handwritten signature in cursive script, reading "Stafford E. Thornton", written over a horizontal line.

Stafford E. Thornton
Secretary

Frank L. Gaddy, P.E.
Huntington
President

Dr. Kenneth H. Means, P.E.
Morgantown

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Charleston
Executive Director

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS



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Charleston, WV 25301
TELEPHONE 348-3554

RESULT OF COMMENT PERIOD

1. No comments were received by the Board during the 30-day comment period.
2. No amendments were made to the proposed rules as a result of the comments or other information.

A handwritten signature in cursive script, appearing to read "Stafford E. Thornton", written over a horizontal line.

Stafford E. Thornton
Secretary