

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #4

Do Not Mark In this Box

1988 JAN 29

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: West Virginia State Board of Registration for Professional Engineers TITLE NUMBER: 7 CSR 1

CITE AUTHORITY W. Va. Code § 30-13-1, et seq.

AMENDMENT TO AN EXISTING RULE: YES  NO  (Modification by LRMRC)

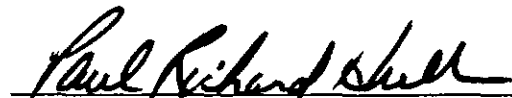
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Regulations Governing the W. Va. State 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, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Paul Richard Hull  
Senior Assistant Attorney General  
Board Counsel

WEST VIRGINIA LEGISLATIVE RULE  
WEST VIRGINIA STATE BOARD  
OF REGISTRATION FOR  
PROFESSIONAL ENGINEERS  
CHAPTER 30-13  
SERIES 1.

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

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Section 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 § 30-13-5 et seq.

1.3. Filing Date -

1.4. Effective -

Section 2. DEFINITIONS

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

2.2. "EI" means Engineer Intern

2.3. "NCEE" means National Council of Engineering Examiners.

2.4. "PE" means Professional Engineer

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

Section 3. APPLICATIONS

3.1. 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

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

forwarded directly from National Council, need fill in only items 1, 2, 7, 8, and 9 of the application form.

3.2. Certification as an Engineer Intern. Applicants for admission to the examination in ~~only~~ the Fundamentals of Engineering ~~should~~ shall use the abbreviated applicable application form for certification as an Engineer Intern as specified by the Board.

3.3. Residence Requirements. The Board will accept applications for PE registration from any person who has previously been certified by this Board as an EI 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 EI 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

4.1. 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.

4.2. Application Dates. ~~Applications shall be in the Board office eight weeks prior to the examination date.~~ Applications for the fundamentals of engineering examination must be received in the board office sixty (60) days prior to the examination date. Applications for the principles and practice of engineering examination must be received in the board office ninety (90) days prior to the examination date.

4.3. Examination Schedule. EI and PE examinations will be given in the spring and fall in the location designated by the Board.

4.4. Examination Content. The EI examination will be the Fundamentals of Engineering and the PE examination will be the Principles and Practice of Engineering as prepared and furnished by the NCEE.

4.5. Branch of Engineering. Examinations will be given in those branches in which examinations are prepared by the National Council of Engineering Examiners.

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

Successful applicants will be registered as a professional engineer without reference to branch in either their certificate or seal.

4.6. Readmission to Examination. An applicant who fails the an 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~~ to the subsequent examination provided (a) that the applicant has no appeal of the 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.

4.7. Graduates of Board Approved Curricula. Those engineering curricula that hold ABET accreditation are Board approved engineering programs. Students 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 EI upon successful completion of the examination. These graduates may apply for the examination in the Principles and Practice of Engineering after four years of Board approved engineering experience following their graduation.

The EI examination must be taken and passed prior to taking the PE examination.

A graduate of an engineering or related science curriculum of four (4) years or more, with a specific record of twenty (20) years or more of progressive experience on engineering projects of which at least ten (10) years have been in responsible charge of important engineering projects and of a grade and character which indicates to the board that the applicant may be competent to practice engineering shall be admitted to an eight (8) 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 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. Registration under this provision may not be recognized by other boards.

4.8. Graduates of Board Approved Allied Science Curricula. Graduates of Board approved allied science curricula may be admitted to the Fundamentals of Engineering examination upon presentation of evidence of two years of engineering experience under the direct supervision of a

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

Professional Engineer and may be certified as an EI upon successful completion of the examination.

These graduates will be admitted to the examination in the Principles and Practice of Engineering after they have completed an additional four years of engineering practice under the supervision of registered Professional Engineers who can attest to the engineering nature of the work.

Four year curricula in Engineering Technology that are accredited by ABET will be treated as Board approved allied science degree.

4.9. 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 EI.

4.10. Appeals. An applicant may appeal a failing grade on either examination, however, the appeal may be made only within sixty (60) days of the date the examination results are mailed from the board office.

## Section 5. OTHER REQUIREMENTS FOR REGISTRATION

5.1. 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.

5.2. 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

5.3. Registration by Comity. The Board shall evaluate the requirements which led to the granting of prior

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

registration in another state, and if they are equivalent to that 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 hours of written examination unless specifically exempt under Section 4.07.

5.4. 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.

5.5. Experience Credit for Graduate Work. A maximum of one year experience credit will be given for the completion of a Board approved engineering graduate program. However, four years experience may not be attained in less than forty-eight months after receiving an approved four year engineering degree.

Section 6. SEAL

6.1. 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 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.

6.2. 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.

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

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.

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

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

Section 7. FEES

~~7.1. The annual renewal fee will be set by the Board.~~  
The fees for the various board services are as follows:

<u>Engineering Intern</u>	
Application fee -----	\$15.00
Examination fee -----	\$20.00
Re-examination fee -----	\$25.00
<u>Professional Engineer</u>	
Application fee -----	\$25.00
Examination fee -----	\$50.00
Re-examination fee -----	\$60.00
Initial registration fee -	\$20.00

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

7.2. 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~~ \$45.00, up to twenty-four months. After twenty-four (24) months, the registration is cancelled and the party must reapply.

~~7.3. The fee for retaking a failed examination will be set by the Board to cover the cost of the graded examination from the NCEE.~~ The fee for the replacement of a valid certificate of registration shall be ten dollars (\$10.00).

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

~~7.4. The fee for the replacement of a valid certificate of registration shall be ten dollars. The cost of the biennial roster will be set by the board.~~

~~7.5. The cost of the biannual roster will be set by the Board.~~

Section 8. DISCIPLINARY PROCEEDINGS

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

8.2. 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.

8.3. 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

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

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

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

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, from 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.

Board of Registration  
for Professional Engineers  
Leg. Rule, 30-13  
Series 1., Section

(2) He shall seek professional employment on the basis of qualifications and competence for proper accomplishment of the work.

(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.

8.4. 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.

8.5. 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.

6-4 Location of Magazines . . . . .	495 34
6-5 Magazine Construction . . . . .	495 35
6-6 Magazine Construction . . . . .	495 37
Specific Types . . . . .	495 37
6-7 Storage Within Magazines . . . . .	495 40
6-8 Miscellaneous Safety Precautions . . . . .	495 42
<b>Chapter 7 Use of Explosive Materials for Blasting . . . . .</b>	<b>495 43</b>
7-1 Basic Requirements . . . . .	495 43
7-2 Pre-Blast Operations . . . . .	495 45
7-3 Initiating Blasts . . . . .	495 46
7-4 Disposal of Explosive Materials . . . . .	495 47
<b>Chapter 8 Explosive Materials at Piers, Railway, Truck, and Air Terminals . . . . .</b>	<b>495 48</b>
8-1 Basic Requirements . . . . .	495 48
8-2 Notifications . . . . .	495 48
8-3 Facilities for Trailer-on-Flacarc and Container-on-Flacarc . . . . .	495 48
8-4 Designation of Facilities . . . . .	495 50
<b>Chapter 9 Phosphoric Materials . . . . .</b>	<b>495 51</b>
9-1 Basic Requirements . . . . .	495 51
9-2 Storage . . . . .	495 51
9-3 Use . . . . .	495 51
9-4 Record Keeping and Reporting . . . . .	495 52
<b>Chapter 10 Small Arms Ammunition and Primers, Smokeless Propellants, and Black Powder Propellants . . . . .</b>	<b>495 53</b>
10-1 Basic Requirements . . . . .	495 53
10-2 Small Arms Ammunition . . . . .	495 53
10-3 Smokeless Propellants . . . . .	495 54
10-4 Black Powder . . . . .	495 56
10-5 Small Arms Primers . . . . .	495 56
<b>Appendix A Explanatory Notes . . . . .</b>	<b>495 58</b>
<b>Appendix B The American Table of Distances for Storage of Explosives . . . . .</b>	<b>495 61</b>
<b>Appendix C Recommended Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents . . . . .</b>	<b>495 66</b>
<b>Appendix D Magazine Construction . . . . .</b>	<b>495 74</b>
<b>Appendix E Referenced Publications . . . . .</b>	<b>495 76</b>

## Code for the Manufacture, Transportation, Storage, and Use of

### Explosive Materials

NEPA 495-1982

NOTICE: An asterisk (\*) following the number or letter designating a paragraph indicates explanatory material on that paragraph in Appendix A.

Information on referenced publications can be found in Appendix E.

#### Chapter 1 General

##### 1-1 Scope.

1-1.1 This Code shall apply to the manufacture, transportation, storage, sale, and use of explosive materials.

1-1.2 This Code shall not apply to the transportation of explosive materials when under the jurisdiction of the US Department of Transportation (DOT). It shall, however, apply to state and municipal supervision of compliance with the Hazardous Materials Regulations of DOT (Title 49, *Code of Federal Regulations*, Parts 100-199).

1-1.3 This Code shall not apply to the transportation and use of military explosives by federal and state military agencies nor shall it apply to the transportation and use of explosive materials by federal, state, or municipal agencies while engaged in normal or emergency performance of duties.

1-1.4 This Code shall not apply to the manufacture of explosive materials under the jurisdiction of the US Department of Defense. This Code shall also not apply to the distribution to or storage by military agencies of the United States, nor shall it apply to arsenals, navy yards, depots or other establishments owned by or operated by or on behalf of the United States.

1-1.5 This Code shall not apply to pyrotechnics such as flares, fuses, and railway torpedoes. It also shall not apply to common fireworks, as defined in NEPA 1121L, *Model State Fireworks Law*. (See also NEPA 44A, *Code for the Manufacture, Transportation and Storage of Fireworks*, and NEPA 1123, *Standard for Public Display of Fireworks*.)



1988 JAN 29

WEST VIRGINIA LEGISLATURE  
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE  
 Room M-438, State Capitol  
 Charleston, West Virginia 25305  
 (304) 340-3286

*Senator Larry A. Tucker, Co-Chairman*  
*Delegate Thomas A. Knight, Co-Chairman*

January 28, 1988

*M. E. Mowery, Counsel*  
*Debra A. Graham, Associate Counsel*  
*Marie Nickerson, Receiving Clerk*

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: WV State Board of Registration  
 For Professional Engineers  
 608 Union Building  
 Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Regulations Governing the West Virginia Board of  
 Registration for Professional Engineers

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed
  - (b) as modified by the agency   X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Paul Richard Hull, Esq.  
 Senior Asst. Attorney General