

State Board of Registration for Professional Engineers

608 Union Building

Charleston, West Virginia 25305

Brief Summary of the Proposed Changes to the Rules

The State Board of Registration for Professional Engineers would like to request the review of the Legislative Rule-Making Committee as to the proposed changes to the Rules and Regulations governing the practice of engineering in the State of West Virginia.

The Board requests consideration and approval for the following:
(1) elimination of the exemption procedures which are no longer in effect; (2) addition of provisions for registration by eminence; (3) addition of procedures for Professional Limited Liability Partnerships and Companies in accordance with passage of SB 338, (4) addition of Administrative Hearing Procedures; (5) requirement for a minimum of three (3) PDH units to be engineering ethics and (6) to clarify language in providing a better interpretation and understanding of the existing Rules and Regulations.

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Circumstances Which Require the Changes of the Rule

The State Board of Registration for Professional Engineers would like to request the review of the Legislative Rule-Making Committee as to the circumstances which require the changes in the existing Rules and Regulations governing the practice of engineering in the State of West Virginia.

These changes are to eliminate existing sections of the Rules and Regulations which have expired since the last update, to include a provision for registration by eminence, implement procedures for administrative hearings and to implement procedures for professional limited liability partnerships.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES (NOT APPLICABLE)

Rule Title: Rules of the West Virginia State Board of Registration
for Professional Engineers
Type of Rule: **Legislative** **Interpretive** **Procedural**
Agency State Board of Registration for Professional Engineers
Address 608 Union Building
 Charleston, WV 25301-2703

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

3. Objectives of these rules:

Strike-outs indicate deletion of section, line or word

Underlines indicate additions to section, line or word

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

SERIES 1

REGULATIONS GOVERNING THE WEST VIRGINIA BOARD
OF REGISTRATION FOR PROFESSIONAL ENGINEERS

FILED
JUN 12 2 14 PM '93
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

7-1-1 GENERAL

1.1 Purpose. The purpose of adopting rules of procedure is to ensure the proper performance of the duties of the Board of Registration for the regulation and conduct of member and personnel procedures, meetings, records, examinations.

1.2 Authority. West Virginia Code 30-13-9(a), 14, 18, 19, 21.

1.3 Scope. This rule is binding upon persons registered under West Virginia Code 30-13-1 et seq and is applicable to individuals or organizations providing engineering services and holding a certificate of authorization.

~~1.4 February 23, 1993~~

~~1.5 June 16, 1993~~

~~1.4~~ ~~1.6~~ Repeal of former rules.

This legislative rule repeals and replaces West Virginia 7CSR1 "Regulations governing The West Virginia Board of Registration for Professional Engineers" filed and effective ~~May 9, 1991~~ June 16, 1993.

7-1-2 DEFINITIONS

- 2.1 "Code" means West Virginia Code 30-13-1 et seq.
- 2.2 "NCEES" means the National Council of Examiners for Engineering and Surveying.
- 2.3 "ABET" means the Accreditation Board for Engineering and Technology.
- 2.4 "TAC/ABET" means the Technology Accreditation Commission.
- 2.5 "T.O.E.F.L." means the Test of English as a Foreign Language provided by the Educational Testing Service, Post Office Box 6151, Princeton, New Jersey, 08541-6151.
- 2.6 "FE" means the Fundamentals of Engineering Examination.
- 2.7 "EI" means an Engineer Intern (a person who has passed the "FE" examination).
- 2.8 "PE" means the Principles and Practice of Engineering Examination.
- 2.9 "PDH" means Professional Development Hour - A contact hour of instruction or presentation. The common denominator for other units of credit.
- 2.10 "CEU" means Continuing Education Unit - Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.
- 2.11 "College/Unit Semester/Quarter Hour" - Credit for

ABET approved courses or other related college courses approved in accordance with Subsection 14.4 of this Rule.

2.12 "Certificate of Authorization" - A firm, corporation, co-partnership, joint stock association or private practitioner employing others, referred to in this rule as a "firm", which practices or offers to practice engineering by engineers registered by the Board must apply to the Board for a certificate of authorization.

7-1-3 APPLICATIONS

3.1 Types of Applications.

(a) A person applying to the Board for registration as a Professional Engineer shall submit to the Board a completed application on forms prescribed by the Board.

(b) A person applying to the Board for certification as an Engineer Intern shall submit to the Board a completed application on forms prescribed by the Board.

(c) A person or firm applying to the Board for a Certificate of Authorization of a firm shall submit to the Board a completed application on forms prescribed by the Board.

3.2 Criteria for Applications

(a) The Board will only accept applications from persons who meet the education and experience requirements under the Code.

(b) The Board will accept applications for

certification as an Engineer Intern from persons who meet all of the requirements of the Code. Senior students in a four-year program leading to a baccalaureate degree from a Board approved curriculum may apply for certification as an Engineer Intern and may take the Fundamentals of Engineering examinations during their senior year.

Ⓢ The Board will accept an application for registration which includes the documented record properly executed and issued with verification by the National Council of Examiners for Engineering and Surveying (NCEES) in lieu of an application on forms prescribed by the Board.

3.3 Completing Applications.

(a) An applicant shall provide a detailed description of the nature of the work and duties he or she has performed in the Professional Experience section of the application form. When space provided on forms is inadequate, supplementary sheets provided by this Board (or if not provided, sheets of a good grade of white paper 8.5 x 11 are to be used).

(b) All applications made to this Board must be subscribed and sworn to before a Notary Public or other persons qualified to administer oaths on the forms used by the applicant.

Ⓢ In order to allow sufficient time for processing and for securing examinations, all applicants which may require an examination must file their application with this Board at times specified by the Board.

(d) The Board may refuse to register an applicant who has withheld information or provided statements which are untrue or misrepresented the facts.

(e) It is the responsibility of the applicant to supply correct addresses of all references and to be sure that the references are provided as requested. Failure of a reference to respond could delay the processing of an application either until a reply is obtained or another reference is given.

(f) In relating experience, the applicant must account for all employment or work experience for the period of time which has elapsed since graduation from a Board approved curriculum. If the applicant was not employed or was employed in other kinds of work he or she should indicate this in the experience record.

(g) 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.

3.4 Applications from Non-Residents.

(a) A person who is a resident of West Virginia, for purposes of registration is defined as a person who lives and is employed within the geographical boundaries of the state.

(b) Applicants who do not reside in West Virginia must be registered or certified in the state in which they reside before they can apply for registration or certification in this

state.

© A person who is a graduate of a Board approved curriculum in West Virginia may apply for original registration or certification.

(d) All applicants for registration with the Board by comity must have passed an eight hour written examination in the Fundamentals of Engineering and an eight hour written examination in the Principles and Practice of Engineering that are acceptable to this Board, and must have met all of the other requirements of the West Virginia Code 30-13-1 et seq.

3.5 Applications from Applicants With Degrees from Foreign Schools.

(a) All foreign language documentation submitted with the completed application must be accompanied by translations certified to be accurate by competent authority recognized by the Board.

(b) All applicants must be able to speak and write the English language fluently. A score of over five hundred fifty (550) on the "Test of English as a Foreign Language" as administered by the Educational Testing Service, Post Office Box 6151, Princeton, New Jersey, 08541-6151, fulfills this requirement. Other testing services may be approved by the Board.

3.6 Disposal of Applications. The Board may approve an application; defer it until the applicant provides further information, gains more experience, additional references, or for

other reasons; or deny an application.

(a) When an application is approved by the Board it indicates that the applicant has met all the requirements for registration or certification required by the statutes of this state, and the Board shall grant the applicant a registration or certification. The Board shall notify the applicant of the approval.

(b) The Board will retain all applications which are deferred for any reason until the applicant submits the additional information required by the Board.

© When the Board denies an application it will be kept on file for one year and then destroyed.

3.7 Reconsideration of Applications. An applicant may request that the Board reconsider an application which has been denied when the request is based on additional information and/or evidence which could affect the original decision. An applicant must make the request for reconsideration within one year after the decision was made to deny the original application.

3.8 Retention of Records of Applications. The Board copies all approved applications which show the name, date of birth, the date of application, education, experience and other qualifications of the applicant, the examination required of the applicant, and the Board granted registration or certification notice. The copies are stored by the Board in fire-proof and secure facilities. The Board will keep a duplicate copy of the

records.

3.9 For the Purposes of § 30-30-17, a professional limited liability partnership or professional limited liability company shall apply for a certificate of authorization.

3.10 Every professional limited liability partnership and professional limited liability company shall, prior to applying for registration with the Secretary of State, obtain a letter indicating its eligibility to receive a certificate of authorization pursuant to Code § 30-13-17. Such a letter shall be filed with the application for registration with the Secretary of State.

7-1-5. CURRICULA APPROVED BY THE BOARD

The term "a graduate of a curriculum of four years or more approved by the Board as being of satisfactory standing" used in West Virginia Code 30-13-13(a)(2) is interpreted by this Board to mean a person who has:

(a) a Baccalaureate Degree from a school whose curricula is accredited by the Accreditation Board for Engineering and Technology, Engineering Accreditation Commission at the time of the awarding of the degree.

(b) a Baccalaureate Degree in Engineering Technology from a school whose curricula is accredited by The Accreditation Board for Engineering and Technology, Technology Accreditation Commission at the time of the awarding of the degree.

Ⓢ a Baccalaureate Degree from a school whose curricula is not accredited by the Accreditation Board for Engineering and Technology, Engineering Accreditation Commission such as those curricula recently developed or curricula offered by foreign schools evaluated by the Board as being of high quality essentially equal to those curricula which are accredited.

7-1-6. EXPERIENCE

An applicant for registration as a Professional Engineer must demonstrate that he or she has obtained a minimum of four (4) years of experience satisfactory to the Board.

6.1 The applicant's experience on engineering projects shall be progressive, in that it was of increasing quality and required greater responsibility.

6.2 The Board shall consider only the experience an applicant obtains after he or she graduates from a Board approved curriculum.

6.3 An applicant shall not obtain experience in violation of West Virginia Code 30-13-1 et seq.

6.4 Experience gained in the Armed Services shall be of a character equivalent to that which would have been gained in the civilian sector doing similar work. A good indicator is that the applicant while in the Armed Services served in an engineering or engineering related group.

6.5 The experience gained shall be under the supervision of

a registered Professional Engineer. If not, the applicant should explain why the Board should consider the experience acceptable.

6.6 For sales experience to be creditable, the applicant must prove that engineering principles were required and used while gaining this experience.

6.7 The Board may classify the teaching of design courses in curriculums approved by the Board as professional engineering experience if the employment was at a teaching grade of at least assistant professor.

6.8 Experience gained in the design of engineering research and projects as a member of an engineering faculty at the rank of assistant professor or higher and where the curriculum is approved by the Board may be creditable.

6.9 The board may credit an applicant who has followed a Board approved Baccalaureate Degree in engineering with a Master's degree in engineering with one year's experience if the applicant successfully completes graduate study leading to the Master's degree in engineering. If the applicant completed a Doctor of Philosophy Degree in engineering under the same conditions, the Board may credit the applicant with two years total experience. The two years credit includes the one year for the Master's degree. If the Doctor of Philosophy Degree is obtained without the Master's degree, the credit for experience is two years.

6.10 The applicant must have obtained the experience at

the time of filing the application.

6.11 The Board will not give the applicant credit for experience obtained as a contractor in the execution of design by a Professional Engineer or in employment considered as that of supervising construction of such work.

7-1-7. REFERENCES

7.1 The applicant shall use individuals as references who have personal knowledge of the applicant and who are able to issue judgments concerning the applicant's experience, ability, character or reputation.

7.2 For registration as a professional engineer, an applicant must submit the names of five individuals as references, three of whom shall be professional engineers having personal knowledge of the applicant's engineering experience. Also, the applicant should include in the references individuals familiar with the applicant's experience noted in the employment section of the application.

7.3 For certification as Engineer Intern, an applicant must give at least three character references.

7.4 The applicant must give the present address of each reference. Verification will be made by reviewing each and every reference's response.

7.5 An applicant may not use a relative as a reference.

7.6 An applicant may not use a current Board member as

a reference.

7.7 Each applicant should inform the persons concerned that they are being used as references.

7.8 It is the responsibility of the applicant to assure the return of a completed reference form to the Board from each person listed as a reference. This responsibility includes assuring the return of educational transcripts and verification of registration in other states. All reference materials must be complete before the Board acts on the application.

7.9 Confidentiality of Reference Replies. The Board will place replies received from references regarding the qualifications of an applicant in files which are considered non-public records. The Board will not divulge the source and character of the information except in special cases when required by law.

7-1-8. EXAMINATIONS

8.1 Classification of Examinations. The Board will administer the following written examinations, prepared and furnished by the National Council of Examiners for Engineering and Surveying:

- (a) The "FE" examination.
- (b) The "PE" examination.

The Board will offer examinations only in those branches of engineering in which examinations are prepared by the National

Council of Examiners for Engineering and Surveying. Examinations in engineering branches may not be available at both the spring and fall examinations. The Board will announce the schedule of available examinations.

Ⓢ The Board will register successful applicants as professional engineers without reference to engineering branch in either their certificate or seal.

8.2 Eligibility of Applicant for an Examination.

(a) An applicant for registration as a professional engineer may not sit for the "PE" examination until the "FE" examination has been passed.

(b) No applicant may sit for the eight (8) hour "FE" or the eight (8) hour "PE" examination until the Board has established that the applicant is eligible for the examinations.

Ⓢ Applicants for certification as an Engineer Intern are eligible to sit for the "FE" during the senior year in college before obtaining a baccalaureate degree in a program which has been approved by the Board.

(d) Graduates of a four year engineering technology program accredited by TAC/ABET may sit for the "FE" examination during the senior year. The Board will certify the applicant as an Engineer Intern after the applicant has presented evidence of two (2) years of engineering experience following graduation, under the direct supervision of professional engineers and successful completion of the examination and all other

requirements specified by West Virginia Code 30-13-1 et seq and this rule.

(e) The Board will accept applications for registration from any person who has previously been certified by the Board as an Engineer Intern and will grant the applicant registration after he or she has satisfactorily completed the "PE" examination, regardless of his or her place of domicile: provided, that not more than twelve years (12) have lapsed since the date of the original issuance of the Engineer Intern certificate.

~~(f) Until June 30, 1995 a graduate of a board approved 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 "FE" examination. Registration under this provision may not be recognized by other states.~~

~~(f) (g) Until June 30, 1995 Applicants over fifty (50) years of age with twenty (20) years of acceptable ~~twenty-five (25)~~ years of engineering experience and fifteen (15) years in responsible charge may be registered with the approval of the Board, 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.~~

~~(h) Until June 30, 1996, a graduate of Board approved allied science curricula may be admitted to the "FE" examination after presenting evidence of two (2) years of engineering experience under the direct supervision of professional engineers and may be certified as an Engineer Intern 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.~~

8.3 Examination Dates and Locations.

(a) Written examinations are offered on dates set by the NCEES. Normally this is in the spring and the fall of the year. The examination dates are available from the Board.

(b) Locations at which the examinations are given are designated by the Board and are available from the Board Office.

8.4 Language of the Examination. The language used in the examination is English.

8.5 Study Information.

(a) The Board will not distribute copies of questions used on prior examinations.

(b) The Board has published specifications for all written examinations, which may be obtained upon request to the Board Office.

8.6 Instruction for Examinees. Instructions provided prior to each examination will declare an examination to be open

or closed book. Materials permitted in the examination room will be listed in the instruction information provided to each applicant by the Board.

8.7 Failure to Attend an Examination.

(a) An applicant who fails to attend an examination for which they have been scheduled and the Board has ordered the examination will forfeit the fees paid for the examination.

(b) Failure of an applicant to attend an examination for which he or ~~her~~ she has been scheduled to attend does not count as a failure of the examination.

8.8 Examination Offerings.

(a) An applicant who fails to pass ~~the~~ an ~~"PE"~~ examination the first time will be granted a request to sit for another offering of the examination upon payment of the appropriate fee. In the event the applicant fails to pass the second examination and wishes to take a further examination, the applicant will be requested to provide the Board with evidence to show that additional knowledge has been acquired by the applicant since he or she failed the examination.

(b) An applicant for an ~~the~~ ~~"PE"~~ examination will be notified by the Board before the examination date of approval to take the examination. The applicant must notify the Board whether he or she plans to sit for the examination within ten (10) days of being notified of approval to take the examination.

8.9 Examination Results. The Board will provide

written notification to all applicants of their examination results indicating pass or failure.

8.10 Review of Failed Examinations. An applicant who fails to make a passing score on an examination may review the examination paper within 30 days after receiving the result. The applicant must review the examination in the office of the Board and under its supervision.

8.11 Examinations in Additional Branches of the Principles and Practice of Engineering Examination.

(a) Upon payment of the prescribed examination fee listed in Subsection 19.6 of this rule, a currently registered engineer by this Board may sit for examinations in additional branches of the "PE" examination offered by NCEES. The Board shall record the passing of such examination.

(b) Should an applicant fail to pass the examination in additional branches he or she shall retain his or her current registration status.

7-1-9. CLASSIFICATIONS OF ENGINEERING

9.1 Classification of Registration. The Board shall register a qualified applicant under one of the following classifications.

- (a) Professional Engineer;
- (b) Engineer Intern;
- © Professional Engineer-Retired;

7-1-10 REGISTRATIONS

10.1 Provided the applicant has met all the requirements of the West Virginia Code and Regulations as it pertains to education and experience and upon passing required examinations, the applicant shall be granted a certificate of registration to practice engineering in West Virginia.

~~10.1~~ 10.2 Registration Number as a Professional Engineer.

The Board shall assign each registrant a registration number at the time registration is granted by the Board. Numbers are issued consecutively in the order in which an applicant is granted registration. The Board will advise the registrant of his or her number.

~~10.2~~ 10.3 Certificates of Registration. The Board shall issue a certificate of registration to an applicant who has met the requirements of this state and who has paid the registration fee. The certificate signed by the Board members will show the registrant's registration number and seal of the Board.

~~10.3~~ 10.4 Reissuance of Certificate. The registrant shall notify the Board when a certificate of registration or certificate of authorization is lost, destroyed or mutilated, and, if the registrant is in good standing, the Board will replace it, upon presentation of a notarized statement of the loss and the prescribed fee.

7-1-11. SEALS

11.1 Seal of the Board. The seal of the Board shall be affixed to each certificate of registration.

11.2 Seal of Registrant. When an applicant is granted registration, he or she must obtain an official seal of the size and design prescribed by the Board. The seal shall contain the following information:

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

The following is a sample of the suggested format:



The seal may be a rubber stamp, or one that embosses.

11.3 Seal on Documents.

(a) The registrant shall place his or her seal and signature on all specifications, reports, drawings, plans, design information and calculations which he or she presents to a client or any public or government agency to certify that the work was done by the registrant or under the control of the registrant.

Revisions to any documents must be numbered, dated, and initialed by the registrant whose seal appears on the original document.

(b) When copies are to be made, the registrant's seal and signature on all originals, tracings or other documents shall be reproducible.

(c) When the document contains more than one sheet, all registrants involved in preparation of the document or who controlled the work shall seal and sign the first or title page and are responsible for it. In addition, each sheet shall be sealed and signed by the registrant or registrants responsible for each sheet. When a firm, partnership or corporation performs the work, each sheet shall be sealed and signed by the registrant or registrants who performed the work. For bound documents, the registrant's seal who performed the work may be affixed to the first sheet of the bound document if that sheet bears a statement as to the number of bound sheets.

(d) Each registrant is solely responsible for the use of his or her seal. Only a registrant shall affix his or her seal to work that is prepared by the registrant or work that is prepared under his or her direct supervision.

(e) When a registrant of another state has a temporary permit to practice in this state, the registrant shall use his or her state's registration seal and affix his or her signature and a copy of the temporary permit to work done in this state.

(f) When a registrant of this state examines and verifies the work of an out-of-state registrant, the registrant of this state has complete dominion and control of the design which includes possession of the sealed and signed reproducible construction drawings with complete signed and sealed design calculations indicating all changes in design.

(g) The Board authorizes the electronic reproduction of a seal when the resulting facsimile meets the specifications of this rule. The registrant is responsible for the improper use of the seal on work not prepared either by the registrant or under his or her direct supervision.

(h) It is the responsibility of each registrant to report the loss or theft of his or her seal to the Board as soon as practical after the loss or theft.

7-1-12 TEMPORARY PERMITS

12.1 Requirements.

(a) This Board may grant a temporary permit to a person who desires to practice or offer to practice engineering in this state who is not a resident of this state or who has no established place of business in this state, provided that person is legally qualified by registration in his or her home state or any foreign country and that his or her qualifications for obtaining the permit meet those required for registration under West Virginia Code 30-13-1 et seq.

(b) To obtain a temporary permit, an applicant must make application to the Board on forms provided by it and pay a fee prescribed in Subsection 19.6 of this rule.

12.2 Length and Scope of Permit. The Board shall grant the permit for a definite length of time not to exceed one year to allow the permittee to do a specific job. Under the permit the permittee may not practice engineering with respect to any other work not set forth in the permit.

7-1-13. EXPIRATIONS AND RENEWALS

13.1 Renewals.

(a) The Secretary of the Board will annually during the month of May mail a renewal notice to the last known address of every person currently registered or certified by the Board under provisions of the West Virginia Code 30-13-1 et seq and to every firm holding a certificate of authorization. The notice shall indicate the expiration date and the amount of the renewal fee established by the Board.

(b) The responsibility for the timely payment of a registrant's fees rests solely with the individual registrant.

© After reaching the age of 65, a Registered Professional Engineer who has retired from practicing professional engineering may apply for the status of Professional Engineer-Retired, and upon payment of a fee as prescribed in Subsection 19.6 of this rule, he or she shall be registered as a Professional

Engineer-Retired.

7-1-14 CONTINUING PROFESSIONAL COMPETENCY

14.1 ~~Beginning the first day of July, 1994~~ The Board shall require every registrant to show evidence of obtaining fifteen (15) meet the continuing professional competency requirements (PDH units)at a minimum three (3) of the PDHs shall be in the field of engineering ethics ~~of this rule~~ for professional development as a condition for registration renewal.

14.2 Requirements. A registrant may earn PDH's as follows:

(a) Successful completion of college courses.

(b) Successful completion of continuing education courses.

(c) Successful completion of correspondence, televised, videotaped, and other short courses/tutorials.

(d) Active participation in seminars, in-house courses, workshops, and professional conventions.

(e) Teaching or instructing in subdivision (a) through (d) of this subsection.

(f) Authoring published papers, articles, or books.

If a registrant exceeds the annual requirement in any year, a maximum of eight (8) PDHs may be carried forward into the subsequent year.

14.3 Units. The conversion of other units of credit to PDH units is as follows:

1 College or unit semester hour	45 PDHs
1 College or unit quarter hour	30 PDHs
1 Continuing Education Unit	10 PDHs
1 Hour of professional development in course work, seminars, professional conventions, workshops.	1 PDH
1 Hour of teaching professional develop- ment in course work, seminars, pro- fessional conventions, workshops.	2 PDHs
Each published paper or article on engineering subjects	10 PDHs

14.4 Determination of Credit. The Board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit.

(a) The Board will base credit for college or community college approved courses upon course credit established by the college. Course approval will be recommended by the Board.

(b) Credit determination for seminars, workshops, and professional conventions will be determined by the Board.

© Obtaining credit for authoring published papers, articles or books, and in-house courses is the responsibility of the registrant and is subject to review by the board.

14.5 Recordkeeping. Each registrant is charged with the

responsibility of his or her own professional development activities. The maintenance of records to be used to support credits claimed is the responsibility of the registrant. Records required include, but are not limited to: 1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; 2) attendance verification records in the form of completion certificates, paid receipts or other documents supporting evidence of attendance. These records must be maintained for a period of three years and copies may be requested by the board for audit verification purposes.

14.6 Exemptions. A registrant may be exempt from the professional development educational requirements for one of the following reasons:

(a) New registrants by way of examination or reciprocity are exempt for their first renewal period.

(b) A registrant serving on active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year is exempt from obtaining the professional development hours required during that year.

© Registrants experiencing physical disability, illness, or other extenuating circumstances may be exempt subject to review and approval by the Board. Supporting documentation must be furnished to the board.

(d) Registrants who list their occupation as "Retired" on the board approved renewal form and who further certify that they are no longer receiving any remuneration from providing professional engineering or land surveying services are exempt from the required professional development hours. In the event a retired engineer elects to return to the active practice as a professional engineer, he or she must earn professional development hours before returning to active practice for each year exempted not to exceed the annual requirement for two years.

14.7 Inactive Status. A registrant may bring an inactive license to active status by obtaining all delinquent PDHs. The number of PDHs required shall be no more than the two year minimum annual requirements for PDHs.

14.8 Forms. All renewal applications require the completion of a continuing education form specified by the board outlining PDH credit claimed. The registrant must supply sufficient detail on the form to permit audit verification, must certify and sign the continuing education form, and must submit the form with the renewal application and fee.

7-1-15 AUTHORIZATION CERTIFICATES

15.1 Application and Fees. A firm desiring to obtain authorization should contact the Board for an application form and fee schedule.

7-1-16 PROFESSIONAL RESPONSIBILITY

16.1 Knowledge of Rules. All persons registered under the provisions of the West Virginia Code 30-13-1 et seq are charged with having knowledge of the Rules of Professional Responsibility as well as amendments to the rules. The Board will notify every registrant and applicant for registration in writing of amendments to the rules. The Rules and amendments as made are also published in the roster provided for in West Virginia Code 30-13-12.

16.2 Rules of Professional Responsibility. To comply with the purpose of the West Virginia State Board of Registration Law for professional engineers, West Virginia Code 30-13-1 et seq which is to safeguard life, health and property, to promote the public welfare, and to maintain a high standard of integrity and practice, the Board has developed the following Rules of Professional Responsibility. These rules supplement the provisions for professional responsibility prescribed in West Virginia Code 30-13-1 et seq and are binding on every person holding a certificate of registration to offer or perform engineering services in this state.

(a) All persons registered in West Virginia are required to be familiar with the Code, this rule, and all applicable laws relating to the practice of engineering. The Rules of Professional Responsibility 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 engineering.

(b) The practice of 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.

(d) Registrants shall avoid conflicts of interest and faithfully serve the legitimate interests of their employers, clients, and customers within the limits defined by this rule. Their professional reputation shall be built on the merit of their services and they shall not compete unfairly with others.

16.3 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.

© Registrants shall notify their employer or client

and such other authority as may be appropriate when their professional judgement 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 the 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, 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 the Rules of Professional Responsibility shall provide the board with information and assistance necessary to the final determination of the violation.

16.4 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 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 plan or document not prepared under their direct control and personal supervision.

Ⓢ 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, suppliers, manufacturers, 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 judgement 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 Principles or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by the private concern to the governmental body which they serve.

16.5 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 the 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.

© 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.

16.6 Convictions. A registrant of this Board who has been fined, received a reprimand, or had his or her registration revoked, suspended or denied in another jurisdiction for reasons or causes which this Board finds would constitute a violation of the law governing the practice of engineering in this state or any rule or regulation promulgated by this Board is sufficient cause for the Board levying a fine, reprimanding the registrant, or denying, revoking or suspending a registration to practice engineering by the registrant in this state.

16.7 If a professional limited liability partnership or professional limited liability company has been issued a certificate of authorization, the person in direct control or having personal supervision of practice shall be responsible for compliance with Code § 30-13-1 et seq. and these regulations, notwithstanding any limitations of liability provided by Code §§ 47B-3-6 and 31B-13-1305.

7-1-17 COMPLIANCE AND ENFORCEMENT

17.1 Compliance. The statutes of this state provide that a person must be registered to practice or to offer to practice engineering in the state. Any person who violates any of the provisions of West Virginia Code 30-13-1 et seq or this rule

is subject to the provisions of West Virginia Code 30-13-21 through 23.

7-1-18 SEVERABILITY

If this Rule, or any part of this rule is found by the courts to be invalid for any reason, the remainder of the Rule continues in full force and effect and each and every part of the Rule is severable.

7-1-19 ADMINISTRATIVE HEARING PROCEDURES

Rule 1.0 Hearing Panel Complaints regarding persons licensed by the Board and complaints regarding unlawful practice of engineering in this State or a request for hearing regarding licensure or issuance of a certificate of authorization shall be heard and decided by the Board as a whole sitting as a Hearing Panel, except that any member of the Board who has a conflict of interest with regard to a particular complaint may decline to participate in such proceedings. Recusal is mandatory in any proceeding in which a judge, similarly situated, would be required to exercise recusal. The filing of a complaint by a Board member will not automatically be grounds for recusal. Recusal shall not prevent a Board member from testifying as a witness.

If recusals result in there being less than a quorum, the remaining unrecused members of the Board shall appoint a registered

professional engineer who is not a member of the Board for each
recused member to serve solely for the purposes of hearing and
deciding such complaint.

The Hearing Panel shall conduct hearings, make findings
of fact and conclusions of law, and issue administrative decisions
and orders to enforce the provisions of Chapter 30, Article 13 of
the West Virginia Code.

Rule 1.1 Location of Hearing Proceedings Unless otherwise
ordered by a majority vote of the Board, all hearings shall be
heard at Charleston.

Rule 1.2 Quorum A quorum shall consist of not less than
three members of the Hearing Panel.

Rule 1.3 Presiding at Hearings The President of the
Board shall serve as the presiding officer at hearings. In the
even of the President's recusal, the Hearing Panel shall elect a
presiding officer from among themselves who will preside for
hearings on that complaint.

The presiding officer shall have the power to (1)
administer oaths and affirmations, (2) rule upon offers of proof
and receive relevant evidence, (3) regulate the course of the
hearing, (4) hold conferences for the settlement or simplification
of the issues by consent of the parties, and (5) dispose of
procedural requests or similar matters.

Rule 1.4 Privilege and Immunity All information

provided, including documents and testimony given with respect to any complaint, investigation or proceeding under these rules shall be privileged in any action for defamation or the like. All members of the Board, its counsel, and their employees shall be absolutely immune from civil suit in the same manner as members of the judiciary in the State for any conduct in the course of their official duties.

Rule 2.0 Complaints (a) Form The form of complaints shall be determined by the Board. All complaints shall be in writing and verified by the complainant before a notary public.

(b) Who may file A complaint may be filed by any natural person or legal entity, any registered engineer, or any firm holding a certificate of authorization. A complaint may be filed by a member of the Board staff, with or without direction from the Board or a member of the Board. Charges may be based upon information received solely through investigative activities undertaken by the Board.

Rule 2.1 Filing A complaint will not considered to be filed until received by the Administrator at Charleston during normal business hours. Facsimile and other electronic transmission of complaints will be accepted for filing, provided originals are filed with the Administrator within fourteen (14) days thereafter.

Rule 2.2 Notice to Respondent The Administrator shall give notice of the filing of a complaint to any and all respondents

named in the complaint. Such notice shall be by certified mail, return receipt requested, to the respondent at his, her, or its last known address or in a manner consistent with the rules for service of process under the West Virginia Rules of Civil Procedure. A return of service shall be completed by the person effecting service and filed with the Board.

Rule 2.3 Response to Complaints The respondent may file, within thirty days after service of the complaint, a responsive pleading which shall state with particularity every defense in law or fact to the allegations in the complaint. Every responsive pleading shall be verified by the respondent.

Rule 2.4 Failure to File Response The failure to file a response to the complaint shall be deemed an admission of the factual allegations contained therein. The failure to file a response shall not be grounds for delaying hearing or other action upon the complaint.

Rule 2.5 More Definite Statement The Board or a respondent may request a clarification or more definite statement of the allegations in the complaint. A respondent's request for a more definite statement shall be filed with the Board not less than fifteen days before the hearing date. The Board's request may be issued to a complainant at any time, and the complainant shall respond within seven days of service of the request by the Board. Failure of a complainant to respond timely to such request may be

grounds for dismissal of the complaint.

Rule 3.0 Notice of Hearings Within sixty (60) days of filing of a complaint, the presiding officer shall set a hearing date and time. Notice of the hearing date and time shall be served on respondent and counsel for respondent, if any, by first class mail addressed to the last known mailing address of such person. Such notices shall be mailed not less than thirty (30) days before the hearing date. All complaints, unless dismissed by the Board as unfounded, trivial or settled informally, shall be heard within six months after the date each complaint was filed.

Hearings may be rescheduled by the presiding officer and, once begun, continued from time to time, for cause shown as the interests of justice may require.

Rule 3.1 Prehearing Matters The presiding officer, with or without the request of a party, may schedule a prehearing conference to narrow the issues to be heard, to estimate the time which will be required for the hearing, rule upon prehearing motions, and, when appropriate, negotiate informal disposition of the complaint.

Rule 3.2 Conduct of Hearing (a) Order of Hearing
Upon calling on for hearing any complaint, the presiding officer shall cause the complaint to be read and offer the respondent the opportunity to reply. The Hearing Panel may receive evidence from its investigator or staff. Respondent, directly or by counsel, may

present evidence in defense against the complaint. All testimony given shall be subject to cross-examination by the opposing party. The Board may receive rebuttal evidence after respondent's presentation. Any member of the Hearing Panel may inquire to any witness at any time.

After the receipt of all evidence, respondent and Board staff, directly or by counsel, may be allowed to make closing arguments.

If the respondent is not a natural person, the respondent shall be represented by counsel. The Board or its staff may be represented by counsel.

Failure of the respondent to appear, without cause, shall not result in delay or postponement of the hearing.

(b) The Record. The record of a hearing shall consist of the testimony and documentary and physical evidence admitted into evidence by the Hearing Panel, all agency memoranda, data, and other documents considered by the Hearing Panel in making its determination, and the administrative decision or order ruling upon the complaint. All hearing proceedings on the record shall be recorded by stenographic means. Any party may obtain a transcript of the proceedings at the party's expense.

© Testimony. Witnesses shall testify under oath or affirmation.

(d) Evidence. The West Virginia Rules of Evidence shall apply. Irrelevant, immaterial, or unduly repetitious evidence

shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The Hearing Panel shall be bound by the rules of privilege recognized by law. Objections to evidentiary offers and the ruling thereupon shall be noted in the record. Any party to any such hearing may vouch the record as to any excluded testimony or other evidence.

Only the evidence admitted into the record and judicially cognizable facts so noticed shall be considered in the determination of the complaint.

Depositions may be taken and read or otherwise received as evidence in accordance with Rules 30 and 32 of the West Virginia Rules of Civil Procedure.

(e) Conformance Upon motion of any member of the Hearing Panel or any party assigning error or omission in any part of any transcript, the presiding officer shall settle all differences arising as to whether such transcript truly discloses what occurred at the hearing and shall direct that the transcript be corrected as appropriate so as to make it conform to the truth.

(f) Deliberations Hearing Panels may deliberate and issue decisions in person, by telephone conference, or by written correspondence.

(g) Open Meetings and Executive Sessions Pursuant to

Chapter 6, Article 9A of the West Virginia Code, the Board may by majority vote hold hearings under these rules in executive session unless the respondent requests an open meeting. In Any event, the vote upon the final decision of the Hearing Panel shall be in open session.

Rule 3.3 Standard of Proof To impose any sanction or penalty, the findings of the Hearing Panel in support hereof must be proved by clear and convincing evidence.

Rule 3.4 Subpoena and Contempt Power The Hearing Panel shall have power to issue subpoenae or any other lawful process through the presiding officer at the request of any party. Subpoenae may be issued for attendance of witnesses or the production of documentary evidence. Subpoenae and other process may be served in accordance with the West Virginia Rules of Civil Procedure. All witnesses shall be entitled to such witness fees and expenses as in any civil proceeding in this State. The Hearing Panel may apply to any circuit court for an order requiring any person to comply with the presiding officer's directions in maintaining order at a hearing or to compel compliance with subpoenae.

Rule 3.5 Hearing Procedures relating to Conviction of a Crime that Reflects Adversely on an Engineer's Honesty or any Felony. (a) An engineer who has been convicted of a crime that reflects adversely on the engineer's honesty, trustworthiness or

fitness as an engineer, or of any felony, shall, within thirty days of entry of the order or judgment of conviction, forward a copy of the order or judgment to the Board's Administrator. A plea or verdict of guilty or a conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this rule. Any other person may file a copy of the order or judgment with the Board.

(b) Upon receipt of the order or judgment, which shall be conclusive evidence of the guilt of the crime or crimes of which the engineer has been convicted, the Administrator shall treat the order or judgment as a complaint for misconduct and violation of professional responsibility.

© A respondent may present evidence and argument in support of mitigation based on, but not limited to, the nature of respondent's misconduct, surrounding facts and circumstances, previous ethical violations, the willfulness of the conduct, and the adequacy of respondent's previous opportunity to present evidence.

Rule 3.6 Reciprocal Discipline (a) A final adjudication in another jurisdiction, whether state or federal, of misconduct constituting grounds for discipline of a registered professional engineer in that jurisdiction or a voluntary surrender of a license to practice engineering in connection with a disciplinary proceeding in that jurisdiction shall, for the purposes of

proceedings under these rules, conclusively establish such conduct.

(b) A registrant in this State against whom any form of public discipline has been imposed by the authorities of another jurisdiction, whether state or federal, or who voluntarily surrenders his or her license to practice engineering in connection with such disciplinary proceedings shall notify the Board of such action in writing within ten days thereof. Failure to notify the Board shall constitute an aggravating factor in any subsequent disciplinary proceeding. Any other person may notify the Board of such action by filing a complaint.

© If the registrant intends to challenge the validity of the disciplinary order entered in the foreign jurisdiction or the voluntary surrender of his or her license to practice engineering in connection with a disciplinary proceeding, the registrant must request a formal hearing and file with the Board a full copy of the record of the disciplinary proceedings which resulted in imposition of the disciplinary order or the voluntary surrender of a license to practice engineering.

Rule 4.0 Disposition of Complaints Any party may submit proposed findings of fact and conclusions of law as permitted in the discretion of the presiding officer.

After a hearing upon a complaint is completed, including an instance in which the respondent defaults, the Hearing Panel shall make findings of fact and conclusions of law and issue the

appropriate administrative decision or order.

The Hearing Panel may make findings of fact and conclusions of law in connection with the hearing and in conformity with applicable law notwithstanding the failure of the complaint to allege the grounds therefor.

Informal deposition may also be made of any complaint by stipulation, agreed settlement, or consent order provided, however, that a hearing upon any pending complaint set pursuant to Rule 3.0 shall not be cancelled other than by a respondent's acceptance of such proposed informal disposition.

All dispositions of complaints shall be signed by the presiding officer. A copy shall be maintained in the permanent records of the Board.

The official determination of the Hearing Board shall be made by majority vote of the Hearing Panel. The presiding officer shall vote in every matter but shall reserve his vote to the last.

Any minority of the Hearing Panel may preserve its opinion in written form submitted at or not less than ten days after the conclusion of the hearing.

A copy of the administrative decision or order shall be served upon each party and his counsel in person or by registered or certified mail within five days after entry by the presiding officer.

Rule 4.1 Unlawful Practice If the administrative decision or order finds that the respondent is engaging in the practice of engineering in this state without being registered, the Board may request the prosecutor of any county to prosecute the respondent pursuant to West Virginia Code § 31-13-23 or the Board may file a complaint seeking an injunction of enforce the provisions of Chapter 31, Article 13 of the West Virginia Code. Nothing in these rules shall prohibit the Board from requesting prosecution or seeking an injunction without prior notice and opportunity for hearing to the person who is believed to be in violation.

7-1-20 ~~7-1-19~~ FEES

19.1 The fees listed in Subsection 19.6 are payable to West Virginia State Board of Registration for Professional Engineers. Fees must be paid by check or money order. The Board will not accept cash in payment of fees. Applications received without the proper fee will be returned to the applicant.

19.2 Renewal Fee

(a) Each registrant will be notified by the Secretary of the Board by the thirty-first (31st) day of May of each year of the amount of the renewal fee.

(b) A registrant shall pay renewal fees before the thirtieth (30) day of June of each year.

© A registrant whose renewal fees are one month in

arrears is subject to a penalty for late renewal.

19.3 A renewal fee received one month after the renewal date is late and the Board will assess the registrant a penalty in the amount of an additional ten percent (10%) of the fee. When the fee is received 90 days after the expiration date, the Board will assess the registrant a penalty in the amount of an additional 30 percent (30%) of the fee.

19.4 The Board shall void the Certificate of Registration of any registrant whose renewal fee is not paid within 90 days after the certificate's expiration date. In order to continue to practice engineering the former registrant must submit a new application for registration to the Board.

~~19.5 A registrant who supplies the Board before the expiration date of his or her certificate with an affidavit stating that the registrant is no longer practicing and will not practice engineering in this state may retain his or her certificate for later use upon payment of delinquent fees.~~

~~19.6~~ 19.5 The fees for various services provided by the Board are:

	Engineer Intern	Professional Engineer
	<hr/>	<hr/>
Application Fee:	\$25.00	\$40.00
Examination Fees:		
Board's Administration Charge:	\$20.00	\$20.00

