

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

Do Not Mark In this Box

FILED

Nov 23 3 20 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS TITLE NUMBER: 7

CITE AUTHORITY 30-13-1 THROUGH 24 INCLUSIVE

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1 IN ITS ENTIRETY

TITLE OF RULE BEING AMENDED: TITLE 7 - LEGISLATIVE RULES - WEST VIRGINIA

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS, SERIES 1, SECTIONS 1
THROUGH 18 INCLUSIVE.

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.



Authorized Signature (Ann Hicks)

\$8.60

FILED

1998 JUN 23 3 23 PM '98

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

SERIES 1

REGULATIONS GOVERNING THE WEST VIRGINIA STATE BOARD
OF REGISTRATION FOR PROFESSIONAL ENGINEERS

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 _____

1.5 _____

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 June 16, 1993.

7-1-2. DEFINITIONS

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

2.2 "Certificate of Authorization" - A document issued by this Board to 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.

2.3 "CEU" means Continuing Education Unit - ,which is a unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.

2.4 "Code" means West Virginia Code §30-13-1 et seq.

2.5 "College/Unit Semester/Quarter Hour" is the credit given for ABET approved courses or other related college courses approved in accordance with Subsection 14.4 of the Rule.

2.6 "EI" means an Engineer Intern (a person who has passed the "FE" examination).

2.7 "FE" means the Fundamentals of Engineering Examination.

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

2.9 "PDH" means Professional Development Hour which is one contact hour of instruction or presentation designed to keep a professional engineer current in his or her discipline.

2.10 "PE" means the Principles and Practice of Engineering Examination or an acronym used after an engineer's name to indicate

whether or not he or she is a registered engineer with the State Board of Registration For Professional Engineers.

2.11 "TAC/ABET" means the Technology Accreditation Commission.

2.12 "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.

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 shall only accept applications from persons who meet the education and experience requirements under the Code.

(b) The Board shall 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.

(c) The Board shall accept an application for registration which includes the documented record properly executed and issued with verification by the 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.

Additional sheets of a good grade of white paper 8.5 inches x 11 inches are to be used.

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

(c) 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 shall 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 shall be registered or certified in the state in which they reside before they can apply for registration or certification in this state.

(c) Regardless of one's residence, a person who is a graduate of a Board approved curriculum in West Virginia may apply for the original registration or certification.

(d) Prior to applying for a registration with the Board by comity all applicants for registration, shall 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 shall meet 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 shall be accompanied by translations certified to be accurate by a competent authority recognized by the Board.

(b) All applicants shall speak and write the English language fluently. An applicant who obtains 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, meets 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.

(c) When the Board denies an application it shall keep it on file for one year and then destroy it.

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 shall 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 shall make copies of 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 duplicate copies of these records shall be stored by the Board and one copy shall be stored in fire-proof and secure facilities.

3.9 For the Purposes of West Virginia Code §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 a license with the Secretary of State, obtain a letter indicating its eligibility to receive a certificate of authorization pursuant to West Virginia Code § 30-13-17. The letter shall be filed with the application for license with the Secretary of State. An applicant for a certificate of authorization pursuant to this rule must designate a responsible engineer in charge who must have an ownership interest in the professional limited liability partnership or professional limited liability company.

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; or

(c) 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 shall 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 broad in scope in his/her discipline and 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 of equivalence 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 shall explain why the Board should consider the experience acceptable.

6.6 For sales experience to be creditable, the applicant shall 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 The Board may credit 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.

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 of 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 shall obtain the experience prior to the time of filing the application.

6.11 The Board shall 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 An 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 shall 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 shall submit at least three character references.

7.4 An applicant shall give the present address of each reference. The Board shall review 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 The Board shall place replies received from references regarding the qualifications of an applicant in files which are considered non-public records. The Board shall 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 shall administer the following written examinations, prepared and furnished by the National Council of Examiners for Engineering and Surveying:

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

The Board shall offer examinations only in those branches of engineering in which examinations are prepared by NCEES.

Examinations in engineering branches may not be available at both the spring and fall examinations. The Board shall announce the schedule of available examinations.

(c) The Board shall 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.

(c) 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 his or her 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 shall accept applications for registration from any person who has previously been certified by the Board as an Engineer Intern regardless of his or her place of domicile and where no more than twelve years (12) have lapsed since the date of the original issuance of the Engineer Intern certificate. The Board shall grant the applicant a registration only after he or she has obtained the required education and experience acceptable to the Board before taking and passing the "PE" exam.

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 shall 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 shall declare an examination to be

open or closed book. Materials permitted in the examination room shall 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 he or she has been scheduled and the Board has ordered the examination forfeits the fees paid for the examination.

(b) Failure of an applicant to attend an examination for which he or 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 an 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 retake the examination, the Board shall request the applicant 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 examination shall be notified by the Board before the examination date of approval to take the examination. The applicant shall 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 shall provide

written notification to all applicants of their passing or failing of an examination.

8.10 Review of Failed Examinations. An applicant who fails to make a passing score on an examination may review his or her examination paper within 30 days after receiving the result. Such review shall be in the office of the Board and in the presence of a Board member or the Board Administrator.

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, an engineer currently registered by this Board may sit for examinations in additional branches of the "PE" examination offered by NCEES. The Board shall record the passing of the examination.

(b) If an applicant fails 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 Classifications of Registration. The Board shall register or certify a qualified applicant under one of the following classifications.

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

7-1-10 REGISTRATIONS

10.1 The Board shall grant an applicant who has met all the requirements of the West Virginia Code and rules promulgated under the Code as they pertain to education, experience, and upon passing the required examinations, a certificate of registration to practice engineering in West Virginia. The certificate signed by the Board members shall show the registrant's registration number and seal of the Board.

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

10.3 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 shall 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 a

registration he or she shall 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; and
- (d) The words "Registered Professional Engineer".

The following is a sample of the suggested format:

(e) 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 shall be numbered, dated, initialed and sealed by the registrant responsible for the revision.

(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 seal of the registrant 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 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 the 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 Board shall 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 of the certificate of registration or authorization 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.

(c) 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 the fee 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 As a condition of registration renewal, every registrant shall show evidence that he or she obtained fifteen (15) professional development hours (PDHs) during the previous year.

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

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

14.4 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 development in course work, seminars, professional conventions, workshops. 2 PDHs

Each published paper or article on engineering subjects 10 PDHs

14.5 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.

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

14.7 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;

(c) Registrants experiencing physical disability, illness, or other extenuating circumstances may be exempt subject to review and approval by the Board; and the registrant shall furnish supporting documentation 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 shall earn at least 30 professional development hours before returning to active practice.

14.8 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 30 PDHs.

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

the form with the renewal application and fee.

7-1-15 AUTHORIZATION CERTIFICATES

15.1 Application and Fees. A firm desiring to obtain a certificate of 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 shall 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 Board's responsibilities which are 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 set forth in this section. 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 shall 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.

(c) 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.

(c) Registrants shall notify their employer or client and any other appropriate authority 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.

(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, 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 Principals 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 unless their participation is approved by the West Virginia Ethics Commission.

16.5 Registrants'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.

(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.

16.6 Convictions. A registered engineer 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 promulgated by this Board is sufficient cause for the Board to levy a fine, reprimand, or deny, revoke or suspend 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 is responsible for compliance with West Virginia Code § 30-13-1 et seq. and this rule notwithstanding any limitations of liability provided by West Virginia Code § 47B-3-6 and 31B-13-1305.

16.8 If a responsible engineer in charge is not a full time employee of the holder of the Certificate of Authorization, he or she shall demonstrate to the Board by satisfactory evidence that he

or she is in direct control or has personal supervision of the professional limited liability partnership or professional limited liability company.

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 FEES

18.1 The fees listed in Subsection 19.6 of this section are payable to the West Virginia State Board of Registration for Professional Engineers. Fees shall 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.

18.2 Renewal Fee

(a) The Board shall notify each registrant 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.

(c) A registrant whose renewal fees are one month in

arrears is subject to a penalty for late renewal.

18.3 A renewal fee received one month after the renewal date is late and the Board shall 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 shall assess the registrant a penalty in the amount of an additional 30 percent (30%) of the fee.

18.4 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 shall submit a new application for registration to the Board.

18.5 The fees for various services provided by the Board are:

	<u>Engineer Intern</u>	<u>Professional Engineer</u>
Examination Fees:		
Application Fee	\$45.00	\$60.00
NCEES' Examination Charge	As charged by NCEES	
Reapply Fee (Cost of exam)	As charged by NCEES	
Registration Fee:		\$25.00
Annual Renewal Fee For:		
a Professional Engineer:		\$35.00
a Professional Engineer-Retired:		\$25.00
Certificate of Authorization:		

Application Fee for Firms or Organizations with three Professional Engineers or Less:		\$10.00
Renewal Fee for Firms or Organizations with three Professional Engineers or Less:		\$ 5.00
Application Fee for Firms or Organizations with more than three Professional Engineers:		\$60.00
Renewal Fee for Firms or Organizations with more than three Professional Engineers:		\$30.00
Comity Application Fee:		\$120.00
Temporary Permit:		\$200.00
Roster Fee:	-----	\$12.00 -----
Replacement Certificates:	-----	\$20.00 -----
Return Check Fee:	-----	\$15.00 -----



FILED

Nov 16 12 17 PM '98

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
Phone: (304) 347-4840
Fax: (304) 347-4919

email: tanders@mail.wvnet.edu
November 12, 1998

Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ann Hicks
State Board of 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, 7CSR1**

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 _____
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. _____

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia State Board of Registration for Professional Engineers

Subject: Rules of the West Virginia State Board of Registration for Professional Engineers, 7CSR1

PERTINENT DATES

Filed for public comment: June 12, 1998
Public comment period ended: July 13, 1998
Filed following public comment period: July 30, 1998
Filed LRMRC: July 30, 1998
Filed as emergency:

Fiscal Impact: None

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

AUG 26 9 43 AM '98

FILED

ABSTRACT

The proposed rule amends a current legislative rule. Several sections of the proposed rule which are obsolete have been deleted from the proposed rule. The following is a synopsis of the substantive amendments.

Subsections 3.9 and 3.10 relating to professional limited liability partnerships and companies are new. It requires these entities to apply for a certificate of authorization and requires a letter be filed with the Secretary of State during registration of the entity stating that the entity is eligible for a certificate of authorization.

Section 14 which relates to continuing professional competency has been amended to allow registrants to carry forward up to 8 excess professional development hours.

Subsection 16.4 has been amended to allow registrants who work for or serve on a governmental body who are principals or employees of a private concern to participate in decisions with respect to professional services offered by the private concern to the governmental body if approved by the West Virginia Ethics Commission.

Subsection 16.7 is new. It states that the person in direct control or having personal supervision of practice in a professional limited liability partnership or company is responsible for compliance with relevant laws.

Subsection 19.5 relates to fees. The application fee and administrative fee of the Board have been combined, but are not raised. The roster fee would be raised \$2.

AUTHORITY

Statutory authority: W.Va. Code, §§30-13-9 & 14 which provide, in part, as follows:

30-13-9

...The board may promulgate and shall adopt "rules of professional responsibility for professional engineers". These rules are binding to any person registered with the board under the provisions of this article. These rules are also applicable to firms holding a certificate of authorization as provided in section seventeen of this article...

30-13-14

...The board shall set fees for all applicants for registration and certification by promulgating legislative rules under the provisions of article three, chapter twenty-nine-a of this code...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.