

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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2011 APR 14 PM 2:17
OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Interpretive CITE AUTHORITY: _____

AMENDMENT TO AN EXISTING RULE: YES ___ NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: Application of Engineering Seal

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON May 30, 2011 AT 4:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV State Board of Registration for Professional Engineers

300 Capitol Street - Suite 910
Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Attachment to Notice of a Comment Period on a Proposed Rule

West Virginia State Board of Registration for Professional Engineers

Brief summary –

7-3-1. Create a series for interpretive rules relating to the application of an engineer's seal.

7-3-2. The purpose of this rule is to provide a needed and statutorily authorized standard for reviewing and sealing another registrant's engineering work.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Application of Engineering Seal

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: WV State Board of Registration for Professional Engineers

Address: 300 Capitol Street - Suite 910
Charleston, WV 25301

Phone Number: 304-558-3554 Email: lesley@wvpebd.org

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

NO FISCAL IMPACT

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Title 7, Series 3 Interpretive Rule

Rule Title: _____

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

NOT APPLICABLE

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

NOT APPLICABLE

Date: APRIL 14, 2011

Signature of Agency Head or Authorized Representative
Leshy Savier-Tabor

TITLE 7
INTERPRETIVE RULE
STATE BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 3
APPLICATION OF ENGINEERING SEAL

§ 7-3-1. General.

1.1. Scope. -- The purpose of this rule is to create a series for interpretive rules relating to the application of an engineer's seal.

1.2. Authority. -- W. Va. Code §§ 30-13-1 et seq. and 29A-3-8.

1.3. Filing Date. --

1.4. Effective Date. --

§ 7-3-2. Checking Another Registrant's Work.

The second sentence of the second paragraph of W. Va. Code 30-13-16(c) sets a standard by which a registrant checks the work of an out-of-state registrant. The reviewing registrant must "completely check and have complete dominion and control of the design" which "includes possession of the sealed and signed reproducible construction drawings with complete signed and seal design calculations indicating all changes in design."

W. Va. Code R 7-1-7.3(g) also discusses the standard for checking the work of an out-of-state registrant and requires the West Virginia registrant to have "complete dominion and control of the design, which includes possession of the sealed and signed reproducible construction drawings and sealed design calculations indicating all changes in design."

The above provisions relate to circumstances when a West Virginia registrant is asked to place a West Virginia professional engineer's seal on work that was done by an out-of-state registrant. This requirement or standard is consistent with the provisions set forth earlier in W. Va. Code 30-13-16(c) and in R 7-1-7.3(a) which requires the registrant's seal to be on engineering documents "presented to a client or any public or government agency" only when the work was done by the registrant or under the

registrant's complete direction and control. However, the provision is outdated inasmuch as there is no longer any distinction between an out-of-state and in-state registrant.

Violation of the provisions regarding the legal use of a registrant's engineering seal is a ground for disciplinary action in W. Va. Code 30-13-21(a)(10), which makes it unlawful to sign or affix the seal (or permit same) "to any specifications, reports, drawings, plans, design information, construction documents or calculations or revisions which have not been prepared or completely checked by the professional engineer or under the professional engineer's direct supervision and control;"

While there is no need for a standard that applies solely to out-of-state registrants, there is often a need for a standard of review for another's work. However, currently there are no provisions that specifically set forth a registrant's duties with regard to review of another's work when it is not an out-of-state engineer. This is a common practice and is often necessary due to death, mobility, job change or other circumstance that requires a successor engineer take over and complete the work.

The Board would like to provide some clarity to its registrants so they may avoid disciplinary action in connection with their sealing engineering work that was done by another engineer. Therefore, the Board is of the opinion that the requirements set forth for the review of work by an out-of-state registrant applies to the review of any registrant's work and will interpret the term "out-of-state registrant" to mean "another registrant" when used in the context of the standard under which a registrant checks another professional engineer's work.