



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Professional Engineers

TITLE-SERIES: 7-01

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Examination, Licensure and Practice of
Professional Engineers

CITE STATUTORY AUTHORITY: W.Va. Code 30-13-9, 13, 14, 15, 16, 17, 18, 19

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 09/18/2019 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Lesley L. Rosier-Tabor, PE, Executive Director

ADDRESS: 300 Capitol Street - Suite 910

Charleston, WV 25301

EMAIL: lesley@wvpebd.org

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This second agency Rule filing is in response to passage of HB118, regarding use of criminal records as disqualification from authorization to practice, which occurred during the recent WV Legislative Special Session. This bill requires all Chapter 30 Boards to propose rules to existing rules for legislative approval to comply with the provisions of the bill within the applicable time limit to be considered by the Legislature during its regular session in the year 2020.

The purpose of the initial changes to this series were previously submitted on June 18, 2019 for public comment, with required comment period ending on July 19, 2019, and the Notice of Agency Approval of the Proposed Rule and Filing with the Legislative Rule-Making Review Committee eFiled on July 24, 2019 and the remainder of the information below was previously submitted.

The majority of the changes to this series are either needed to incorporate necessary changes due to 2019 Legislative action, specifically SB396 for low income and military family fee waivers, and to keep current with our national PE examination changes and reduce the regulatory burden by allowing flexibility of when an applicant can sit for the PE exam. In addition, the Board is recommending removal of the PE Re-application fee based on the new PE exam procedural changes and a fee decrease for larger engineering firms renewing or reinstating their firm COA licenses. General consistency and clean up language is also included and outlined for consideration, including COA nonpracticing status designations to comport with PE nonpracticing status designations.

Details regarding each change is contained in the Supporting Document section as submitted to the Governors Office when requesting the amendments to be approved for filing pursuant to Executive Order No. 2-18 - Regulatory Moratorium.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

This second agency Rule filing is in response to passage of HB118, regarding use of criminal records as disqualification from authorization to practice, which occurred during the recent WV Legislative Special Session. This bill requires all Chapter 30 Boards to propose rules to existing rules for legislative approval to comply with the provisions of the bill within the applicable time limit to be considered by the Legislature during its regular session in the year 2020.

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Waivers of initial licensure fees for low income and military families were inserted in response to SB396. The proposed PE exam changes in §7-1-5.2 mimic those FE exam changes in §7-1-5.3 previously approved in the 2016 WV Legislative Session. These PE exam changes will allow the Board to keep current with national PE examination changes and reduce the regulatory burden to our applicants by allowing applicants to apply directly with NCEES any time after graduating and passing the FE exam. In addition, the Board is recommending removal of the PE Re-application fee based on the new PE exam procedural changes and a fee decrease for larger engineering firms renewing or reinstating their firm COA licenses.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

This second agency Rule filing is in response to passage of HB118, regarding use of criminal records as disqualification from authorization to practice, which occurred during the recent WV Legislative Special Session. This bill requires all Chapter 30 Boards to propose rules to existing rules for legislative approval to comply with the provisions of the bill within the applicable time limit to be considered by the Legislature during its regular session in the year 2020. The Board does not anticipate any economic impact on revenues of state government due to these additional proposed rules as a result of HB118.

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The cost of initial licensure fee waivers required by SB396 and offered to both low income applicants and military families is unknown at this time but is anticipated to have nominal impact on the Board and revenues of State Government.

The Board has closely examined the possible financial impact of removing the PE Re-application fee as well as the reduction in the proposed COA firm license renewal and reinstatement fees and determined a total maximum impact of approximately \$70,000 decrease in revenue per year. The PE Re-application fee will have nominal impact on state revenues with an average of 25 re-apps/exam admins x \$40/app x 2 exam admins/year = \$2000. The COA firm license renewal and reinstatement fee reduction would result in approximately \$68,000 per year based on recent biennially renewals for larger firms as well as annual COA reinstatements.

Given current projections/trends in the number of new PEs and COA firm licenses, as well as the continually high percentage of renewing PEs and firms, the Board believes this fee reduction to be fiscally responsible to further help reduce the regulatory burden on the professional engineering community. It should also be noted that this annual revenue loss will take place upon initial implementation but is anticipated to be minimized over a period of the next 5+ years of growth in licensees.

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

This second agency Rule filing is in response to passage of HB118, regarding use of criminal records as disqualification from authorization to practice, which occurred during the recent WV Legislative Special Session. This bill requires all Chapter 30 Boards to propose rules to existing rules for legislative approval to comply with the provisions of the bill within the applicable time limit to be considered by the Legislature during its regular session in the year 2020. The Board does not anticipate any economic impact on the state or its residents due to these additional proposed rules as a result of HB118.

The purpose of the initial changes to this series were previously submitted on June 18, 2019 for public comment, with required comment period ending on July 19, 2019, and the Notice of Agency Approval of the Proposed Rule and Filing with the Legislative Rule-Making Review Committee eFiled on July 24, 2019.

The cost of initial licensure fee waivers required by SB396 and offered to both low income applicants and military families is unknown at this time but, if utilized as anticipated, will have a positive impact and reduce the regulatory burden for eligible applicants.

With the implementation of the PE Re-application fee removals and COA renewal and reinstatement fee reductions, there will be cost reductions to our applicants (PE examinees as well as larger firms renewing their COAs or applying for reinstatement) which therefore reduces the regulatory impact of existing rules. This will have a positive impact for WV resident applicants and WV firms, as well as those who live out of state.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	\$-70,000

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

This second agency Rule filing is in response to passage of HB118, regarding use of criminal records as disqualification from authorization to practice, which occurred during the recent WV Legislative Special Session. This bill requires all Chapter 30 Boards to propose rules to existing rules for legislative approval to comply with the provisions of the bill within the applicable time limit to be considered by the Legislature during its regular session in the year 2020. The Board does not anticipate any economic impact on the agency, the state or its residents due to these additional proposed rules as a result of HB118.

The purpose of the initial changes to this series were previously submitted on June 18, 2019 for public comment, with required comment period ending on July 19, 2019, and the Notice of Agency Approval of the Proposed Rule and Filing with the Legislative Rule-Making Review Committee eFiled on July 24, 2019.

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The Board has closely examined the possible financial impact of removing the PE Re-application fee as well as the reduction in the proposed COA firm license renewal and reinstatement fees and determined a total maximum impact of approximately \$70,000 decrease in revenue per year. The PE Re-application fee will have nominal impact on state revenues with an average of 25 re-apps/exam admins x \$40/app x 2 exam admins/year = \$2000. The COA firm license renewal and reinstatement fee reduction total is based on FY2018 COA figures which show an average of \$129,000 renewal fee reductions + \$7000 COA reinstatement app fees, totaling \$136,000 biennially (or an average of \$68,000 annually). The total revenue reduction for both PE re-applicants and COA

renewals/reinstatements averages \$70,000 per year initially but is anticipated to be minimized over a period of the next 5+ years of growth in licensees.

However, given current projections/long-term trends examined by the WV PE Board in the last 17 years, as well as the anticipated corresponding revenue and expenditures, the Board believes these fee reductions to be in the best interest of the Board, the State of WV and the professional engineering community at large.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Lesley L Rosier-Tabor -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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

SERIES 1
EXAMINATION, LICENSURE AND PRACTICE
OF PROFESSIONAL ENGINEERS

§7-1-1. General.

1.1. Scope. -- This rule sets forth standards for the regulation and conduct of members, records, applications and examinations. This rule is binding upon persons applying and registered under W. Va. Code §30-13-1 et seq. and is applicable to individuals or firms providing engineering services.

1.2. Authority. -- W. Va. Code §§30-13-9(a), 13, 14, 15, 16(c) 17, 18, 19, 21.

1.3. Filing Date. -- ~~July 18, 2016~~

1.4. Effective Date. -- ~~July 18, 2016~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.

~~1.5.~~ 1.6. Amendment of Former Rules. -- This legislative rule amends West Virginia 7CSR1 “Rules Governing The West Virginia Board of Registration for Professional Engineers” filed and effective ~~July 1, 2004~~ July 18, 2016.

§7-1-2. Definitions.

2.1. “ABET” means ABET, Inc., formally known as the Accreditation Board for Engineering and Technology.

2.2. “ABET/TAC” means the Technology Accreditation Commission of ABET, Inc., formally known as the Accreditation Board for Engineering and Technology.

2.3. “Board” means the West Virginia State Board of Registration for Professional Engineers.

2.4. “COA” means Certificate of Authorization, which is a document required and issued in accordance with §7-1-11 of these rules.

2.5. “College/Unit Semester/Quarter Hour” means the credit given for courses in an ABET approved program or other Board-approved courses approved in accordance with §7-1-10 of these rules.

2.6. “Comity Applicant” means a person who is applying to become a registered PE in West Virginia and is currently in possession of a PE registration or certificate of licensure issued by a proper authority of a jurisdiction other than West Virginia.

2.7. “EI” means a certified Engineer Intern, who is a person who has been certified as such by this Board after having met the qualifications set forth in W. Va. Code §30-13-13 and these rules.

2.8. “FE” means the Fundamentals of Engineering Examination.

2.9. “Foreign Degree Applicant” means a person applying for certification or registration who received a Baccalaureate degree in Engineering from a non-ABET accredited foreign institution outside of the United States.

2.10. “Firm” means a firm, corporation, partnership, joint stock association, private practitioner employing others, or sole proprietor employing no one but himself/herself which practices or offers to practice engineering.

2.11. “Initial license” means obtaining a license in West Virginia for the practice of engineering for the first time.

2.12. “License” or “licensure” means the official authorization by the Board to engage in the practice of or the offering of engineering in the state.

2.13. “Low-income individual” means an individual in the local labor market as defined in W. Va. Code §21-1C-2, whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in a state or federal public assistance program including, but not limited to, the Temporary Assistance for Needy Families Program (TANF), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP).

2.14. “Military families” means any person who serves as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U. S. C. §101, honorably discharged veterans of those forces, and their spouses. This term also includes surviving spouses of deceased service members who have not remarried.

~~2.14~~ 2.15. “NCEES” means the National Council of Examiners for Engineering and Surveying.

~~2.12~~ 2.16. “PDH” means a Professional Development Hour, which is one contact hour of instruction or presentation designed to keep a professional engineer current in his or her branch/discipline.

~~2.13~~ 2.17. “PE” means a registrant or registered Professional Engineer, who is a person who has passed the PE exam and is an acronym used after an engineer’s name to indicate he or she is a registered engineer with the Board.

~~2.14~~ 2.18. “PE exam” means the Principles and Practice of Engineering Examination.

~~2.15~~ 2.19. “Registrant” means a PE.

~~2.16~~ 2.20. “Satisfactory” means that which a reasonable person would find acceptable for purposes of applying to the Board for licensure.

~~2.17~~ 2.21. “Status” refers to the designation of a current or former registrant, including the designations of nonpracticing status set forth in W. Va. Code §30-13-13a.

2.22. “Unreversed”, as that term refers to a criminal conviction, means that a conviction has not been set aside, vacated, pardoned, or expunged.

§7-1-3. EI and PE Applications.

3.1. Types of Applications.

3.1.a. PE Application. A person applying to the Board for ~~examination and~~ registration as a Professional Engineer shall ~~pass the FE and PE examinations in accordance with §7-1-5.2 and §7-1-5.3 of these rules and~~ submit to the Board a completed application on forms prescribed by the Board. ~~In order to allow sufficient time for processing and for securing PE examinations, PE applications must be submitted at least 90 days prior to the desired PE exam date, which dates are available from the Board or NCEES.~~

3.1.b. EI Application. A person applying to the Board for certification as an Engineer Intern shall pass the FE examination in accordance with §7-1-5.3 of these rules and submit to the Board a completed application on forms prescribed by the Board.

3.2. Criteria for Applications.

3.2.a. The Board shall only consider applications completed in accordance with §7-1-3.4 of these rules.

3.2.b. EI Certification. The Board shall accept applications for EI certification from persons who meet all of the requirements of W. Va. Code §30-13-13.

3.2.b.1. A person with a baccalaureate degree from a Board-approved curriculum as defined in §7-1-3.5(a) of these rules who has passed the FE examination may apply for certification as an EI.

3.2.b.2. An EI applicant who graduated from a four-year engineering technology program accredited by the TAC/ABET may only be certified as an EI after the applicant has presented evidence of two (2) years of work experience in accordance with §7-1-3.6 of this rule.

3.3. Applications Generally.

3.3.a. Form of Applications. Applications shall be completely filled out on forms prescribed and provided by the Board. It is the responsibility of the applicant to submit to the Board a completed application package as set forth in this section.

3.3.b. Translations. All foreign language documentation shall be accompanied by translations certified to be accurate by a competent authority recognized by the Board.

3.3.c. Submission under Oath. 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.

3.3.d. Staff Review of Applications. The Board staff shall review the submitted application package and shall notify the applicant if the package is not complete as set forth in §7-1-3.4 below. The Board shall not act upon an application until the applicant has submitted a completed application package. Upon such submission, the Board shall act in accordance with §7-1-4.

3.3.e. Confidentiality of Applications. References and transcripts received in accordance with §7-1-3.7 of these rules shall be kept confidential, and the Board shall place all such confidential records regarding the qualifications of an applicant in files that 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.

3.3.f. Retention 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 Board shall store the duplicate copies of these records and one copy shall be stored in fireproof and secure facilities.

3.4. Completed Application Package.

3.4.a. Definition. A completed application package shall include the following:

3.4.a.1. The requisite education as set forth in §7-1-3.5 of these rules, which education shall be obtained prior to the time of submitting the application;

3.4.a.2. The requisite work experience as set forth in §7-1-3.6 of these rules, which experience shall be obtained prior to the time of submitting the application;

3.4.a.3. The references required in §7-1-3.7 of these rules;

3.4.a.4. One (1) passport-like photo taken within six (6) months of the date of application;

3.4.a.5. Such fee(s) as are required in §7-1-13.4 of these rules, including the non-refundable application fee.

3.4.a.6. Verification of passage of the FE and PE exams.

3.4.b. The Board shall accept an application for PE registration that includes the documented NCEES Record properly executed and issued with verification by NCEES in lieu of that portion of the application form prescribed by the Board.

3.4.c. Specific application requirements.

3.4.c.1. Comity Applicant. In addition to the requirements set forth in this section, comity applicants shall also ~~meet the following requirements:~~ provide verification of current registration in a jurisdiction where they currently live and/or work.

~~3.4.c.1.A. passage of the FE and PE exam; and~~

~~3.4.c.1.B. verification of current registration in a jurisdiction where they currently live and/or work.~~

3.4.c.2. Foreign Degree Applicants. In addition to the requirements set forth in this section, applicants with degrees from foreign schools shall also meet the requirements set forth in subsection 3.5.c.

3.5. Education.

3.5.a. Board-approved curricula. The term “a graduate of a curriculum of four years or more approved by the Board as being of satisfactory standing” used in W. Va. Code §30-13-13(a)(2)(5) is interpreted by this Board to mean a person who has:

3.5.a.1. a Baccalaureate Degree in Engineering from a school whose curricula are accredited by ABET at the time of the awarding of the degree;

3.5.a.2. a Baccalaureate Degree in Engineering Technology from a school whose curricula is accredited by ABET/TAC at the time of the awarding of the degree;

3.5.a.3. a Baccalaureate Degree in Engineering from a school whose curricula is evaluated by the Board and found to be of a high quality essentially equal to those curricula which are accredited by ABET;

3.5.a.4. a Baccalaureate Degree from a school whose curricula is evaluated by the Board and found to be of a high quality essentially equal to those curricula which are accredited by ABET, in addition to a Master’s and/or Ph.D. in Engineering from a school whose undergraduate program in that engineering area is accredited by ABET.

3.5.b. Transcripts. Upon graduation, it is the responsibility of the applicant to have transcripts of all college grades sent directly from the school or college to the Board with the signature of the proper school officer and the official seal of the school.

3.5.c. Degrees from Non-ABET-Accredited Foreign Institutions. All applicants with an undergraduate degree from a non-ABET-accredited foreign institution shall comply with one of the following:

3.5.c.1. If an applicant receives only a Baccalaureate degree in Engineering from a foreign institution not accredited by ABET, he or she shall submit a foreign degree evaluation. An applicant who is required to submit a foreign degree evaluation shall use NCEES or such other evaluation service as may be approved by the Board.

3.5.c.2. If an applicant receives a Baccalaureate degree in Engineering or related curricula from a foreign institution not accredited by ABET, and Master's and/or Ph.D. degree in Engineering from an institution whose undergraduate program is ABET accredited, the Board may review the applicant's transcripts and waive the requirement to submit a foreign degree evaluation.

3.6. Employment; work experience. Employment and work experience verifications are the responsibility of the applicant and shall be submitted on forms supplied by the Board as part of the completed application package.

3.6.a. Requirements.

3.6.a.1. Number of Years. A PE applicant who has earned the degree described in §7-1-3.5(a)(1) or §7-1-3.5(a)(3) shall demonstrate that he or she has obtained a minimum of four (4) years of experience satisfactory to the Board. A PE applicant who has earned the degree described in §7-1-3.5(a)(2) shall demonstrate that he or she has obtained a minimum of six (6) years of experience satisfactory to the Board.

3.6.b. Satisfactory Experience.

3.6.b.1. The applicant's experience on engineering projects shall be broad in scope in his or her branch/discipline and progressive in that it was of increasing quality and required greater responsibility.

3.6.b.2. The experience ~~shall~~ should be under the supervision of a registered Professional Engineer. If not, the applicant shall explain why the Board should consider the experience acceptable.

3.6.b.3. Upon review of the completed application package, the Board may credit experience based on the following:

3.6.b.3.A. Armed Services. 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.

3.6.b.3.B. Sales or supervision. For sales experience or construction supervision experience to be satisfactory, the applicant shall prove that engineering principles were required and used while gaining this experience.

3.6.b.3.C. Teaching. The Board may classify the teaching of courses in ABET-approved programs as satisfactory experience.

3.6.b.3.D. Research. The Board may credit experience gained in the performing of engineering research or projects if the applicant at the time was a member of an engineering faculty or higher at an institution with a Board-approved curricula as defined in §7-1-3.5(a).

3.6.b.3.E. Graduate Studies. The Board may credit an applicant who has followed Board-approved curricula as defined in §7-1-3.5(a) with a Master's degree in engineering with one year's experience. If such applicant follows the Master's degree in engineering with a Doctor of Philosophy degree in engineering, the Board may credit the

applicant with an additional year of experience. If the Doctor of Philosophy degree is obtained without the Master's degree, the applicant may be credited with two years of experience.

3.6.c. Verifications. The verifications shall include the following:

3.6.c.1. Time Period. The Board shall consider only the experience an applicant obtains after he or she graduates from a Board-approved curriculum.

3.6.c.2. Documentation. An applicant shall provide a detailed description of the nature of the work and duties he or she has performed on forms supplied by the Board. The applicant shall account for all employment or work experience for the period of time that has elapsed since graduation from the 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.

3.7. References.

3.7.a. It is the responsibility of the applicant to supply all references on forms supplied by the Board. A PE applicant shall submit satisfactory references from five individuals, three of whom shall be professional engineers having personal knowledge of the applicant's engineering experience and ability. Also, the applicant should preferably include in the references individuals familiar with the applicant's experience noted in the employment section of the application. An EI applicant shall submit at least three satisfactory character references.

3.7.b. An applicant may not use a relative or a current Board member as a reference.

3.7.c. An applicant shall provide each individual being used as a reference with the Board-approved reference form. The reference form shall be returned to the applicant in a signed, sealed envelope to be included in the applicant's completed application package.

§7-1-4. Board Actions on Applications.

4.1. The Board shall take action on all submitted applications.

4.1.a. The application must be complete as set forth in §7-1-3.4 of these rules before the Board considers the application.

4.1.b. The Board may approve, defer, or deny an application.

4.1.b.1. Approval. 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.

4.1.b.2. Deferral. When an application is deferred by the Board, it indicates that the applicant must take further steps to meet the requirements for registration or certification required by the statutes of this state, and the Board shall retain the deferred application until the applicant submits the additional information required by the Board. The Board shall notify the applicant of the deficiencies.

4.1.b.3. Denial. When an application is denied by the Board, it indicates that the applicant has not met the requirements for registration or certification required by the statutes of this state, and the Board shall retain the denied application for one year and then may dispose of it. The Board shall notify the applicant of the denial.

4.2. The Board may defer or deny any application of an applicant who has not provided or withheld information, provided statements that are untrue or misrepresented the facts.

4.3. Reconsideration of Applications. An applicant may request that the Board reconsider an application that has been denied when the request is based on additional information and/or evidence that 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.

4.4. Consideration of Criminal Records.

4.4.a. Notwithstanding other provisions of this rule, the Board may not disqualify an applicant from initial licensure as outlined in W.Va. Code §30-1-1 et seq. Specifically, the Board may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the practice of engineering. In determining whether a criminal conviction bears a rational nexus to the practice of engineering, the Board shall consider at a minimum:

4.4.a.1. The nature and seriousness of the crime for which the individual was convicted;

4.4.a.2. The passage of time since the commission of the crime;

4.4.a.3. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of a licensed engineer; and

4.4.a.4. Any evidence of rehabilitation or treatment undertaken by the individual.

4.4.b. Notwithstanding any other provision of W.Va. Code §30-1-1 et seq. to the contrary, if an applicant has been denied licensure because of a prior criminal conviction, the Board shall permit the applicant to apply for initial licensure if:

4.4.b.1. A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

4.4.b.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

4.4.b.3. The conviction was not for an offense of a violent or sexual nature: Provided, that a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the Board on a case by case basis.

4.4.c. Petition for licensure eligibility determination. An individual with a criminal record who has not previously applied for licensure may petition to the Board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. The petition shall be submitted on the application form prescribed by the Board and shall include sufficient details about the individual's criminal record to enable the Board to identify the jurisdiction where the conviction occurred, the date of the conviction, the date of the release from incarceration if applicable, and the specific nature of the conviction.

4.4.c.1. An individual may include with the petition evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant.

4.4.c.2. The Board shall provide the determination within 60 days of receiving the petition.

§7-1-5. Examinations.

5.1 Examinations Generally.

5.1.a. Examination Dates and Locations. Examinations are offered on dates and at locations set by NCEES, and information regarding the schedule and locations of examinations is available from the Board and NCEES.

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

5.1.c. Study Information. The Board or NCEES shall make available NCEES-published specifications for examinations, which shall not include copies of questions used on prior examinations. The Board may provide such other information available to examinees as may be lawful and helpful to the examinee.

5.1.d. Instructions 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 or NCEES upon confirmation of their approval to take an examination.

5.1.e. Fees. Application and examination fees are listed in §7-1-13.4 of this rule. All fees are non-refundable. The Board in accordance with Board policy may waive fees.

5.2 PE Examinations.

~~5.2.a. Applications and Approval. Applications shall be submitted pursuant to §7-1-3 at least 90 days prior to the desired PE exam date. Each applicant shall be notified by the Board whether he or she has been approved to take the examination at least 30 days before the examination date. Approved applicants shall also receive further instruction for registering with NCEES to take the PE examination.~~

~~5.2.b. Eligibility. A PE applicant may not take the PE examination until the Board has established that the applicant is eligible to take the PE examination, which includes passing the FE examination.~~

~~5.2.c. Dates and Locations. PE examinations are offered on dates and at locations set by NCEES. Information regarding examination dates and locations is available from the Board or NCEES.~~

~~5.2.d. Branches/Disciplines. PE examinations are offered only in those branches/disciplines of engineering in which examinations are prepared and furnished by NCEES. Examinations in all engineering branches/disciplines may not be available at both the spring and fall examinations. Successful examinees shall be registered as a professional engineer without reference to engineering branch/discipline in either his or her certificate or seal.~~

~~5.2.e. Examination Results. The Board or NCEES shall notify the examinee that he or she passed or failed the PE examination.~~

~~5.2.f. Re-examination. An applicant who fails to pass the PE examination or is absent from the PE examination may take further offerings of the examination upon notification and payment of the appropriate fees. Any applicant whose application is less than 2 years old may elect to re-apply using the shortened form supplied by the Board. Any applicant whose application is greater than 2 years old shall submit a new, completed application packet in accordance with §7-1-3.4 of this rule.~~

~~5.2.f.1. An applicant who fails to attend the PE examination for which he or she has been scheduled and the Board has ordered the examination forfeits all fees paid.~~

~~5.2.f.2. An applicant who fails to attend the PE examination for which he or she has been scheduled to attend is not considered by the Board to have failed the examination.~~

5.2.a. NCEES is wholly responsible for all matters related to administration of the PE examination and sets all policies, practices and procedures for the PE examination, including the dates and locations.

5.2.b. Information regarding NCEES administration of the PE examination including times, dates and locations is available from both the Board and NCEES.

5.2.c. Persons wanting to take the PE examination shall apply for the PE directly with NCEES without prior approval of the Board.

5.2.d. PE examinees will be notified by NCEES whether the examinee passed or failed the examination.

~~5.2.g.~~ 5.2.e. Additional Branches/Disciplines.

~~5.2.g.1~~ 5.2.e.1. Upon payment of the prescribed fees listed in §7-1-13.4 of this rule, a PE currently registered by this Board may take examinations in additional branches/disciplines of the PE examination offered by NCEES. The Board shall record the passing of the examination.

~~5.2.g.2~~ 5.2.e.2. If an applicant fails to pass the examination in an additional branch/discipline, he or she retains his or her current registration status.

~~5.2.g.3~~ 5.2.e.3. As with the initial registration, there shall be no reference to additional engineering branches/disciplines in the successful examinee's certificate or seal.

5.3. FE Examinations.

5.3.a. NCEES is wholly responsible for all matters related to administration of the FE examination and sets all policies, practices and procedures for the FE examination, including the dates and locations.

5.3.b. Information regarding NCEES administration of the FE examination including times, dates and locations is available from both the Board and NCEES.

5.3.c. Persons wanting to take the FE examination shall apply for the FE directly with NCEES without prior approval of the Board.

5.3.d. The Board recommends that persons seeking EI certification apply to NCEES to take the FE during his or her senior year of a Board-approved curricula or as soon thereafter as possible.

5.3.e. FE examinees will be notified by NCEES whether the examinee passed or failed the examination.

§7-1-6. Engineering Registration and Certification; Designations of Nonpracticing Status of Former Registrants.

6.1. Classifications of Registration. The Board shall register or certify a qualified applicant under one of the following classifications, of which only a professional engineer is qualified to practice or offer to practice engineering in West Virginia:

6.1.a. Professional Engineer;

6.1.b. Engineer Intern; or

6.1.c. Professional Engineer-Retired.

6.2. Professional Engineer.

6.2.a. PE Registration Numbers. The Board shall assign each successful applicant a registration number. Numbers are issued consecutively in the order in which an applicant is authorized to obtain a seal. The Board shall advise the successful applicant of his or her number.

6.2.b. The Board shall grant an applicant authorization to obtain a seal who has met all the requirements of the W.Va. Code §30-13 and rules promulgated under this Code as they pertain to education, experience, and upon passing the required FE and PE examinations.

6.2.c. Certificates of Registration. The Board shall issue a certificate of registration and similar wallet card to an applicant who has met the requirements of this state and who has submitted a copy of a satisfactory West Virginia PE seal and has paid the certificate fee prescribed in §7-1-13.4. The certificate signed by the Board members shall show the registrant's registration number and seal of the Board.

6.2.d. Replacement of Certificate. The registrant shall notify the Board when a certificate of registration is lost, destroyed or mutilated, and, if the registrant is in good standing, the Board shall replace it, upon presentation of a statement of the loss and the prescribed fee in §7-1-13.4.

6.3. Engineer Intern.

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

6.3.b. The Board shall grant an applicant who has met all the requirements of the W.Va. Code §30-13 and rules promulgated under this Code as they pertain to education, experience, and upon passing the required FE examination, a certificate of certification to serve as an EI in West Virginia.

6.3.c. Certificates of Certification. The Board shall issue a certificate of certification and similar wallet card to an applicant who has met the requirements of this state and who has paid all fees. The certificate signed by the Board members shall show the EI's certification number and seal of the Board.

6.3.d. Replacement of Certificate. The EI shall notify the Board when a certificate of certification is lost, destroyed or mutilated, and, if the EI is in good standing, the Board shall replace it, upon presentation of a statement of the loss and the prescribed fee in §7-1-13.4.

6.4. Professional Engineer-Retired.

6.4.a. Registration Numbers. The Board shall reserve the original assigned registration number for any PE who elects to convert to Professional Engineer-Retired status. This number will remain on file in the event that the retired engineer should chose to reinstate his or her PE registration in accordance with §7-1-9.3 and §7-1-10.10 of these rules.

6.4.b. Documentation of Retired Status. The Board shall issue an appropriate wallet card to an applicant who has met the requirements of this state and who has paid appropriate fees.

6.4.c. PE-Retired status is a nonpracticing status. Registrants who elect PE-Retired status must retire their seal and certify that they are no longer receiving remuneration from providing professional engineering services.

6.5. Updated Information. It is the EI's or PE's responsibility to notify the Board within thirty days of any change in information previously submitted to the Board, such as name change, change of address, change of employer, or similar matter requiring current information.

6.6 Other designations of nonpracticing status. In addition to a retired status or revoked status, the Board recognizes the following additional designations, all of which describe a type of nonpracticing status which does not qualify the former registrant to practice or offer to practice engineering in the state of West Virginia:

6.6.a. Professional engineer - Inactive. An active PE or PE-Retired may elect to re-designate his or her status to Professional Engineer-Inactive upon application for inactive status which states that he or she is no longer practicing or offering to practice engineering in this state for remuneration and may seek reinstatement to active status only in accordance with §7-1-9.3 and §7-1-10.10 of these rules.

6.6.b. Professional engineer – Lapsed. A PE who has not renewed his or her active status in accordance with §7-1-9.2 of these rules or has not applied for a re-designation to retired or inactive status shall be re-designated by the Board to Professional Engineer-Lapsed without further action by the Board and may seek reinstatement to active status only in accordance with §7-1-9.3 and §7-1-10.10 of these rules.

6.6.c. Professional Engineer - Invalidated. A PE who is unable to provide sufficient proof that any condition of renewal set forth in W. Va. Code §30-13-1 et seq. or these rules has been met shall be re-designated by the Board to Professional Engineer-Invalidated without further action by the Board and may seek reinstatement to active status only in accordance with §7-1-9.3 and §7-1-10.10 of these rules.

§7-1-7. Seals.

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

7.2. Seal of Registrant. When an applicant is granted 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:

- 7.2.a. The words “State of West Virginia”;
- 7.2.b. The registrant’s name;
- 7.2.c. The registrant’s registration number; and
- 7.2.d. The words “Registered Professional Engineer.”
- 7.2.e. The seal may be a rubber stamp, electronic or one that embosses.
- 7.2.f. The seal shall not reference any engineering branch/discipline.

The following is a sample of the suggested format:



OFFICIAL SEAL SAMPLE

7.3. Seal on Documents.

7.3.a. A registrant's seal and signature and the date shall appear on the first or title page of all final and/or record documents of specifications, reports, drawings, plans, design information and calculations presented 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.

7.3.b. The registrant signing and sealing the first or title page of documents shall be the firm's PE in responsible charge as designated on the firm's COA application or the project engineer.

7.3.c. Revisions shall be numbered, dated, initialed, and sealed by the registrant responsible for the revision.

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

7.3.e. Each registrant is solely responsible for the use of his or her seal.

7.3.f. When a registrant examines and verifies the engineering work of another, the registrant must take 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.

7.3.g. The Board authorizes the electronic reproduction of a seal when the resulting reproduction meets the specifications of 7.2. 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.

7.3.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.

§7-1-8. Temporary Permits.

Any application for a temporary permit as authorized by W. Va. Code §30-13-24(b) will be processed as a comity application as set forth in §7-1-3.4 (c) (1).

§7-1-9. Expirations, renewals, and reinstatements to active status.

9.1. Expiration. PE registrations expire on December 31st of each even-numbered year and shall be re-designated as lapsed without further action by the Board after that date unless renewed in accordance with subsection 9.2 below.

9.2. Renewals.

9.2.a. The Board shall, during the month of November of every even-numbered year, send a renewal notice by electronic means or by mail to the last known address of every person currently registered by the Board. The notice shall indicate the expiration date of the PE registration and the amount of the renewal fee established by the Board.

9.2.b. The renewal form, which shall be completed and include documentation in compliance with Section 10 and any other applicable provisions of these rules, and the applicable fee, shall be received by the Board on or before the date of expiration appearing on the license being renewed.

9.2.c. Renewals postmarked or submitted online between January 1st to 31st after the expiration date shall render the PE registration valid upon payment of the late fee set forth in §7-1-13.5 of these rules.

9.2.d. Any renewal postmarked or submitted online on or after February 1st after the expiration date will be rejected, any fee returned, and the registration will be re-designated as lapsed without further action by the Board.

9.3. Reinstatement to active status. A former PE desiring to reinstate his or her registration to active status from a nonpracticing status as defined in W. Va. Code §30-13-13a shall submit a completed application on forms prescribed by the Board, along with such non-refundable fees as required in §7-1-13.4 of these rules.

§7-1-10. Continuing Professional Competency.

10.1. As a condition of registration renewal, every registrant shall show evidence that he or she obtained thirty (30) professional development hours (PDH's) during the previous two years.

10.2. Requirements. A registrant may earn PDH's by providing evidence of:

10.2.a. Successful completion of college courses;

10.2.b. Successful completion of continuing education courses;

10.2.c. Successful completion of on-line, correspondence, televised, videotaped, and other short courses or tutorials;

10.2.d. Actively participating in seminars, in-house courses, workshops, technical committees of professional engineering organizations, and professional conventions;

10.2.e. Teaching or instructing in the activities set forth in subsections 10.2.a. through 10.2.d. if such teaching or instruction is outside of the registrant's regular employment duties or if the registrant can document such teaching activity or instruction was newly developed and presented for the first time; or

10.2.f. Authoring published papers, articles, or books.

10.3. If a registrant exceeds the requirement in any two-year period of licensure, he or she may carry a maximum of fifteen (15) PDH's forward into the subsequent two-year licensure period.

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

1 College or unit semester hour	15 PDH's
1 College or unit quarter hour	10 PDH's
1 Continuing Education Unit (CEU)	10 PDH's
1 Hour of professional development in course work, seminars, professional conventions, workshops, technical committee work	1 PDH
1 Hour of teaching professional development in course work, seminars, professional conventions, workshops	2 PDH's
Each published paper or ~~article~~ <u>patent</u> on engineering subjects	10 PDH's

10.5. 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. No pre-approval of offerings will be issued. The Board may deny or invalidate any renewal upon a determination of insufficient or unsatisfactory continuing education.

10.6. 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 review for approval, shall certify and sign the continuing education form, and shall submit the form with the renewal form and fee.

10.7. Record keeping. 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 for professional development activities. 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; and 2) attendance or participation verification records in the form of completion certificates, paid receipts or other documents supporting evidence of attendance or participation. These records shall be maintained for three renewal periods. Copies of these records and supporting documentation may be requested by the Board for approval and verification purposes.

10.8. Continuing Education Verification.

10.8.a. Any registrant may be audited, including Board members and staff.

10.8.b. Three to five percent (3-5%) of renewals will be selected at random and contacted by the Board to verify compliance with continuing education claims.

10.8.c. Any renewal forms submitted with questionable continuing education shall be added to those selected at random for verification.

10.8.d. All verification submissions will be analyzed by the Board who may recommend continued registration, deny or invalidate the renewal, or take such enforcement action as may be appropriate.

10.8.e. Those who are denied renewal will be provided a thirty (30) day probationary period in which to acquire the necessary continuing education and submit documentation to the Board. If the registrant fails to submit satisfactory documentation in the given time period, the registration shall be re-designated as invalidated without further action by the Board.

10.8.f. A registrant may bring a registration invalidated for insufficient continuing education to active status by obtaining the delinquent PDH's, up to a maximum of thirty (30) PDH's, and submitting a PE reinstatement application and appropriate fees as prescribed in §7-1-13.4.

10.9. Exemptions. An active registrant may be exempt from the professional development educational requirements for one of the following reasons:

10.9.a. A new registrant by way of examination or reciprocity is exempt for his or her first renewal period;

10.9.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. The Board shall follow all other laws regarding continuing education for licensees on active duty and their spouses to the extent applicable and appropriate;

10.9.c. A registrant experiencing physical disability, illness, or other extenuating circumstances may be exempt subject to review and approval by the Board; the registrant shall furnish supporting documentation to the Board; and

10.9.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 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 comply with the requirements of §7-1-10.10 before returning to active practice.

10.10. Nonpracticing status. A registrant may bring a registration with a nonpracticing status designation to active status by obtaining the delinquent PDH's, up to a maximum of thirty (30) PDH's, and submitting the PE reinstatement application required by §7-1-9.3.

§7-1-11. Certificates of Authorization (COAs)

11.1. COA required; issuance. A COA is required to practice or offer to practice engineering in WV. The Board shall issue a COA to firms who have met all the requirements of the W. Va. Code §30-13-17 and these rules promulgated under the Code to practice or offer to practice engineering in West Virginia. The certificate signed by the Board President shall show the firm's COA number and seal of the Board.

11.2. Classifications of Authorization. The Board shall certify a qualified firm under one of the following classifications:

11.2.a. Sole Proprietor with no employees who practices or offers to practice engineering for compensation or other tangible benefit or remuneration;

11.2.b. Firm with three or fewer Professional Engineers (regardless of PE's state of registration or licensure); or

11.2.c. Firm with four or more Professional Engineers (regardless of the PE's state of registration or licensure).

11.3. Application and Fees. A firm desiring to obtain a COA shall submit a completed application on forms prescribed by the Board, along with such non-refundable fees as required in §7-1-13.4 of these rules. Each application, including renewal and reinstatement, requires a sworn statement from the PE in responsible charge as set forth in §30-13-17.

11.4. Expiration, Renewal and Reinstatement.

11.4.a. Expiration. COAs expire on December 31st of each odd-numbered year and are void and re-designated as COA – Lapsed without further action by the Board after that date unless renewed in accordance with subsection 11.4.b. below.

11.4.b. Renewals.

11.4.b.1. The Board shall, during the month of November of every odd-number year, send a renewal notice by electronic means or by mail to the last known address of every firm currently holding a COA by the Board. The notice shall indicate the expiration date of the COA and the amount of the renewal fee established by the Board.

11.4.b.2. The completed renewal form and applicable fees shall be received by the Board on or before the expiration date indicated on the certificate.

11.4.c. Renewals received from January 1st to 31st after the expiration date shall render the COA valid upon payment of the late fee set forth in §7-1-13.5 of these rules.

11.4.d. Any renewal postmarked or submitted online on or after February 1st after the year of expiration will be rejected and any fee returned, and the non-renewed COA will be void and re-designated as COA-Lapsed without further action by the Board.

~~11.5. Inactive status. A firm which is no longer doing business in this state may request inactive status. A firm on inactive status is prohibited from practicing or offering to practice engineering in this state until the COA is reinstated.~~

11.5 Designations of nonpracticing status. The Board recognizes the following designations, all of which describe a type of nonpracticing status which does not qualify the former firm or sole proprietor to practice or offer to practice engineering in the state of West Virginia:

11.5.a. COA - Inactive. A firm or sole proprietor with an active COA may elect to re-designate their status to COA-Inactive upon application for inactive status which states the firm or sole proprietor is no longer practicing or offering to practice engineering in this state and may seek reinstatement to active status only in accordance with §7-1-11.6 of these rules.

11.5.b. COA - Lapsed. A firm or sole proprietor who has not renewed their active COA status in accordance with §7-1-11.4 of these rules or has not applied for a re-designation to inactive status shall be re-designated by the Board to COA-Lapsed without further action by the Board and may seek reinstatement to active status only in accordance with §7-1-11.6 of these rules.

11.5.c. COA - Invalidated. A firm or sole proprietor who is unable to provide sufficient proof that any condition of renewal set forth in W. Va. Code §30-13-1 et seq. or these rules has been met shall be re-designated by the Board to Professional Engineer-Invalidated without further action by the Board and may seek reinstatement to active status only in accordance with §7-1-11.6 of these rules.

11.6. Reinstatement. A firm desiring to reinstate a COA shall submit a completed application on forms prescribed by the Board, along with such non-refundable fees as required in §7-1-13.4 of these rules.

11.7. COA Number. The Board shall assign each firm a certificate number at the time a COA is granted by the Board. Numbers are issued consecutively in the order in which a firm is granted a COA. The Board shall advise the firm of this number.

11.8. Replacement of Certificate. The firm shall notify the Board when a COA is lost, destroyed or mutilated, and, if the firm is in good standing, the Board shall replace it, upon presentation of a statement of the loss and the prescribed fee in §7-1-13.4.

11.9. Updated Information. It is the firm's responsibility to notify the Board within thirty days of any change in information previously submitted to the Board, such as name change, change of address, change of PE in responsible charge, or similar matter requiring current information.

11.10. Limited Liability Firms. The PE in responsible charge on the COA is responsible for compliance with W. Va. Code §30-13-1 et seq. and this rule notwithstanding any limitations of liability provided by W. Va. Code §§47B-3-6 and 31B-13-1305.

§7-1-12. Professional Responsibility.

12.1. Knowledge of Rules. All registrants are charged with having knowledge of the Rules of Professional Responsibility. The rules, and all proposed and adopted amendments to the rules, shall be available on the Board website.

12.2. 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 W. Va. Code §30-13-21 and are binding on every registrant and firm.

12.2.a. All persons registered in West Virginia are required to be familiar with W. Va. Code §30-13-1 et seq., 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.

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

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

12.2.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.

12.3. Registrant's Obligation to Society.

12.3.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.

12.3.b. Registrants shall approve and seal only those designs, plans or other documents that conform to accepted engineering standards and safeguard the life, health, property and welfare of the public.

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

12.3.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.

12.3.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.

12.3.f. Registrants shall issue no statements, criticisms or arguments on engineering 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.

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

12.3.h. Registrants having knowledge of possible violations related to the practice of engineering as set forth in statute or these rules, including the Rules of Professional Responsibility, shall provide the Board with information and assistance necessary to the final determination of the violation.

12.4. Registrant's Obligation to Employer and Clients.

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

12.4.b. Registrants shall not affix their signatures or seals to any plans or documents except in accordance with §30-13-1 et seq. and these rules.

12.4.c. 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.

12.4.d. 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.

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

12.4.f. 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.

12.4.g. 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.

12.5. Registrant's Obligation to Other Registrants.

12.5.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 or 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.

12.5.b. Registrants shall not offer, give, solicit or receive, either directly or indirectly, any commission, 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 a public authority.

12.5.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.

12.6. Actions brought against applicants.

A registered PE 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. Any such actions by other jurisdictions shall be reported on the renewal form. For purposes of this section, "another jurisdiction" means any other governing entity, including a licensing board for another profession.

§7-1-13. Fees Generally.

13.1. The fees listed in this section are payable to the West Virginia State Board of Registration for Professional Engineers unless charged by and payable to NCEES. Fees based upon NCEES charges may be obtained from the Board website or the NCEES website. Fees shall be paid by check, money order, credit card or electronic payment and are non-refundable.

13.2. Timing of Submission of Fees. Any PE registration or COA application fee received prior to October 1 will entitle the approved PE or COA to be placed in good standing through the current renewal period. Registration or COA fees received on or after October 1 shall be effective through the next renewal period.

13.3. Renewal Fees.

13.3.a. The Board shall notify each registrant or firm at least thirty days prior to the expiration date of the amount of the renewal fee for the next renewal period.

13.3.b. A registrant or firm shall pay renewal fees on or before December 31st of the year of expiration.

13.3.c. A renewal postmarked or submitted online between January 1 through 31 after the expiration date is considered late, and the Board shall assess a late fee set forth in subsection 13.4 of this rule.

13.3.d. Any renewal postmarked or submitted online on or after February 1st will be rejected, any fee returned, and the registration or COA will be re-designated as lapsed without further action by the Board.

13.4. Fee Amounts. The fees for various services provided by the Board are:

Engineering Intern

Application Fee	\$25.00
Examination Fee	As charged by NCEES

Professional Engineer

Application Fee	\$80.00
Examination Fee	As charged by NCEES
~~Re-application Fee~~	~~\$40.00~~
Re-examination Fee	As charged by NCEES
Certificate Fee	\$25.00
Comity Application Fee	\$150.00

Certificate of Authorization

Application Fee for Sole Proprietor with no employees	\$ 0.00
Application Fee for Firm with three or fewer Professional Engineers*	\$100.00
Application Fee for Firm with four or more Professional Engineers*	\$150.00

Two-Year Renewal Fee

Professional Engineer	\$70.00
Professional Engineer-Retired	\$30.00
COA for Sole Proprietor with no employees	\$ 0.00
COA for Firm with three or fewer Professional Engineers*	\$100.00
COA for Firm with four or more Professional Engineers*	~~\$600.00~~ <u>\$500.00</u>
Late fee	25% of fee

Reinstatement Applications

Professional Engineer	\$185.00
COA for Sole Proprietor with no employees	\$ 0.00
COA for Firm with three or fewer Professional Engineers*	~~\$300.00~~ <u>\$200.00</u>
COA for Firm with four or more Professional Engineers*	~~\$900.00~~ <u>\$700.00</u>
PE or COA Roster**	\$ 25.00
Replacement Certificates	\$ 25.00
Returned Checks	\$ 25.00

* Regardless of the PE's state of registration or licensure

** Available for free download on the Board web site

13.5. Late Fees on Renewals. A renewal postmarked or submitted online after the date of expiration is considered late, and the Board shall assess the registrant a late fee in the amount of twenty-five percent (25%) of the renewal fee.

13.6. Fee Waivers. ~~Fees set forth in this section may be waived in accordance with Board policy.~~

13.6.a. Fees set forth in this section may be waived in accordance with Board policy.

13.6.b. Low-income individuals, as defined in this rule, may seek a waiver of the initial PE or comity application fee for licensure and must apply in a format prescribed by the Board. If the application is complete and it evidences that the applicant is a low-income individual as defined in §7-1-2.13 of these rules, the Board shall waive the application fee.

13.6.c. Military families, as defined in this rule, may seek a waiver of the initial PE or comity application fee for licensure and must apply in a format prescribed by the Board. If the application is complete and it evidences that the applicant is a person meeting the description of military families as defined in §7-1-2.14 of these rules, the Board shall waive the application fee.

§7-1-14. Board Enforcement, Investigations, Disciplinary Actions and Costs.

14.1. Enforcement. Any person or entity who violates any of the provisions of W. Va. Code §30-13-1 et seq. or these rules is subject to the provisions of W. Va. Code §§30-13-21 through 23, as well as the penalties outlined in §7-1-15 of these rules. The Board may take disciplinary action against any person or firm subject to the provisions of W. Va. Code §30-13-1 et seq. and these rules for any non-compliance with or violation of same in accordance with the procedures set forth in W. Va. Code §30-13-22 and the procedural rules adopted by the Board and on file with the Secretary of State.

14.2. Investigations. The Board shall have the power to investigate any complaint filed with the Board and any other matter brought to the attention of the Board regarding noncompliance with the provisions of W. Va. Code §30-13-1 et seq. and these rules.

14.3. Disciplinary Action. Upon Board decision that disciplinary action is warranted, the Board may take such action as is provided for in W. Va. Code §§30-13-21 through 23, these rules, and any Board policies not inconsistent with such applicable law, including the imposition of civil penalties as set forth in §7-1-15 below.

14.4. The Board may assess administrative costs incurred in the performance of its enforcement or investigatory activities against any person or entity who violates the provisions referenced in subsection 14.1 of this rule, which shall be paid to the West Virginia State Board of Registration for Professional Engineers by check or money order within the time prescribed or approved by the Board.

§7-1-15. Civil Penalties.

15.1. The Board may enter an order assessing the appropriate civil penalties against any person or firm found by the Board to have violated the provisions of W. Va. Code §30-13-1 et seq. or these rules including but not limited to, the following for each offense:

<u>Action</u>	<u>Penalty Up To</u>
Practicing or offering to practice without a license, including a license designated as nonpracticing status	\$5,000
Practicing or offering to practice without a COA, including an expired COA	\$5,000
Misuse of seal	\$5,000
Illegal advertising of engineering services	\$5,000
Fraud, deceit, misrepresentation or misinformation to the Board	\$15,000
Violation of condition of probation	\$5,000
Misfeasance or malfeasance	\$1,000
Professional misconduct, negligence or incompetence	\$1,000
Action which is likely to deceive or defraud the public	\$15,000
Action which threatens the public health, safety and welfare	\$15,000
Failure to timely provide information to Board	\$1,000
Non-compliance with Board request or order	\$1,000
General (violation of applicable statute & rules, including W.Va. Code §30-13-21 or the Rules of Professional Responsibility set forth in these rules)	\$5,000

15.2. The penalty for aiding and assisting any of the above violations shall be no more than the maximum penalty defined above. The penalty for discipline by another jurisdiction shall be no more than the penalty set forth above that is substantially equivalent to the grounds for discipline in the other jurisdiction.

15.3. Each day of continued violation may constitute a separate offense.

15.4. In determining the amount of civil penalty to be assessed pursuant to this section, the Board may consider such factors as the following.

- 15.4.a. Whether the amount imposed will be a substantial economic deterrent to the violation;
- 15.4.b. The circumstances leading to the violation;
- 15.4.c. The nature and severity of the violation and the risk of harm to the public;
- 15.4.d. The history of previous violations;
- 15.4.e. The extent to which the cited person or firm has cooperated with the Board and the Board's investigation;
- 15.4.f. The economic benefits gained by the violator as a result of non-compliance;
- 15.4.g. The interest of the public;
- 15.4.h. Other matters as may be appropriate.

15.5. Civil penalties imposed by the Board shall be paid to the West Virginia State Treasurer's Office by check or money order within the time prescribed or approved by the Board.

§7-1-16. Board Policies.

16.1. The Board is authorized to establish policies and procedures not inconsistent with W. Va. Code §30-13-1 et seq. and these rules.

§7-1-17. Severability.

17.1. 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.