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West Virginia State Board of Engineers Rules, Laws and Ethics

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Engineer's Creed

As a professional engineer, I dedicate my professional knowledge and skill to the advancement and betterment of human welfare. I pledge to give the utmost of performance, to participate in none but honest enterprise, to live and work according to the laws of man and the highest standards of professional conduct, to place service before profit, honor and

understanding of the profession before personal advantage, and the public welfare above all other considerations. In humility and with need for divine guidance, I make this pledge.

Members of the Board

**Garth E. Thomas, Jr.,
P.E.**

Board President
Charleston, Kanawha
County Term Expires
June 30, 2023

Bhajan S. Saluja,

P.E. Charleston,
Kanawha County
Term Expires June 30,
2021

**Larry C.
Nottingham, Ph.D.,
P.E.**

Board Vice-
President Duck,
Braxton County
Term Expires June
30, 2027

Edward L. Robinson,

P.E., P.S. Cross Lanes,
Kanawha County Term
Expired June 30,
2019

L.A. Gates, P.E.

Board Secretary
Beckley,
Raleigh County
Term Expired June
30, 2025

Introduction

The licensing of Professional Engineers began in the State of Wyoming in 1907. The West Virginia State Board of Registration for Professional Engineers (WV PE Board) was formed to oversee the licensing of engineers in West Virginia in 1921. Article 13 – the part of the professional licensing chapter of the code (Chapter 30) that regulates Professional Engineers – was first enacted in 1992. The statutes in W.Va. Code 30-13-1 et seq. and Series 7 of the Code of State Rules are the primary components of what is referred to as “West Virginia Engineering Law.”

Laws requiring professional licensure and regulating the practice of that profession are enacted under the police powers of the State. The primary purpose is to protect the public. Through its statutes and rules, the WV PE Board works to safeguard life, health and property and promote the public welfare. This is done, in part, by requiring professional engineers to meet specified minimum standards, follow certain procedures, and practice in accordance with their rules of professional responsibility.

Those licensure standards, and the procedures and rules that govern those who have been granted the privilege to practice engineering in West Virginia, can be found in these pages. It is hoped that the information provided here helps you understand the substantive and procedural aspects of West Virginia Engineering Law. The staff and its counsel are always available in the event you need more information or have questions regarding the Board’s implementation and application of West Virginia Engineering Law.

The Board and staff work diligently to carry out our responsibilities to the public, the State of West Virginia, and to the professional engineers licensed in West Virginia. The more that these entities know, understand and comply with West Virginia Engineering Law, the easier our job will be, and we can all work together to ensure that West Virginia’s professional engineers are providing good service to the State and its people.

CHANGES TO STATUTE OR RULES AFTER 2022:

*Please be advised this booklet contains only legislative action prior to August 2022. It is unpredictable when the West Virginia Legislature may consider and possibly pass legislation amending Article 13, and there is always the possibility that the Board may choose to seek statutory and/or or legislative rule changes through the legislative process in future years. The Board, on its website, will attempt to keep the engineering community and citizens of West Virginia apprised of legislative developments and will always post legislation amending Article 13 that is enacted into law. In addition, any proposed legislative rule filing will be posted for comment on the Board’s website at **www.wvpebd.org** and on the WV Secretary of State’s website at **www.sos.wv.gov**.*

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WEST VIRGINIA CODE

CHAPTER 30 – PROFESSIONS AND OCCUPATIONS ARTICLE 13 - ENGINEERS

§30-13-1. Legislative findings; intent.

The Legislature hereby determines the need to regulate the practice of engineering; to provide for the registration of qualified persons as professional engineers and the certification of engineer interns; to define the terms "engineer," "professional engineer," "engineer intern" and "practice of engineering"; to create a state board of registration for professional engineers and provide for the appointment and compensation of its members; to fix the term of members of the board and define its powers and duties; to set forth the minimum qualifications and other requirements for registration as an engineer and certification as an engineer intern; to establish registration fees with expiration and renewal requirements; to impose certain duties upon the state and political subdivisions thereof in connection with public works; and to provide for the enforcement of this article and penalties for its violation.

§30-13-2. General provisions.

In order to safeguard life, health and property and to promote the public welfare, the practice of engineering in this state is hereby declared to be subject to regulation in the public interest. It is unlawful for any person to practice or to offer to practice engineering in this state, as defined in the provisions of this article, or to use in connection with his or her name or otherwise assume or advertise any title or description tending to convey the impression that he or she is a registered or licensed engineer, unless the person has been duly registered or exempted under the provisions of this article. Engineering is hereby declared a learned profession and its practitioners are held accountable to the state and the public by professional standards in keeping with the ethics and practice of other learned professions in this state. The practice of engineering is a privilege granted by the state.

§30-13-3. Definitions.

Unless the context in which used clearly requires a different meaning as used in this article:

- (a) **"Board"** means the West Virginia state board of registration for professional engineers as provided for in this article.
- (b) **"Consulting engineer"** means a professional engineer whose principal occupation is the independent practice of engineering; whose livelihood is obtained by offering engineering services to the public; who serves clients as an independent fiduciary; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of their public and legal responsibilities and is capable of discharging them.
- (c) **"Engineer"** means a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience.

(d) **“Engineer intern”** means a person who has qualified for, taken and has passed an examination in the fundamental engineering subjects, as provided in this article.

(e) "Practice of engineering" means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems; planning the use of land and water; teaching of advanced engineering subjects, engineering surveys and studies; and the review of construction for the purpose of assuring compliance with drawings and specifications any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects.

Any person who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a professional engineer, or by using another title implies that he or she is a professional engineer or that he or she is registered under this article or who holds himself or herself out as able to perform, or who performs any engineering service or work or any other service designated by the practitioner which is recognized as engineering, is considered to practice or offer to practice engineering within the meaning and intent of this article.

(f) "Professional engineer" means a person who has been duly registered or licensed as a professional engineer by the board. The board may designate a professional engineer, on the basis of education, experience and examination, as being licensed in a specific discipline or branch of engineering signifying the area in which the engineer has demonstrated competence.

(g) "Responsible charge" means direct control and personal supervision of engineering work.

(h) "Rules of professional responsibility for professional engineers" means those rules, if any, promulgated by the West Virginia state board of registration for professional engineers as authorized by this article.

§30-13-4. Board of registration for professional engineers; appointment and term.

There is hereby created the board of registration for professional engineers which shall hereafter be referred to as the board. The board shall be composed of five members appointed by the governor, by and with the consent of the Senate, preferably from a list of names submitted by the West Virginia society of professional engineers. The members of the board shall be qualified and shall meet the requirements of section five of this article. The governor shall present each board

member with a certificate of appointment. Each board member shall make and file an oath or affirmation with the secretary of state to faithfully execute the duties of a member of the board. Members of the board shall serve a term of five years. Of the members first appointed, one shall serve a term of one year,

one shall serve a term of two years, one shall serve a term of three years, one shall serve a term of four years and one shall serve a term of five years. Members are eligible for reappointment but no member may be appointed for more than three full consecutive terms. Each member shall hold office until the expiration of the term for which appointed or until a successor has been duly appointed and has qualified. In the event of a vacancy on the board due to resignation, death or for any cause resulting in an unexpired term and if not filled within three months by the governor, the board may appoint a member to serve in the vacancy until the governor makes the appointment. Members of the former board whose terms have not expired shall fill the term on this board which corresponds with the length of the unexpired term of that member.

§30-13-5. Board qualifications.

Each member of the board must be a citizen of the United States and a resident of this state. Each member shall have been engaged in the lawful practice of engineering as a professional engineer for at least twelve years; shall have been in responsible charge of engineering projects for at least five years; and shall be a registered professional engineer in this state.

§30-13-6. Compensation and expenses.

Each member of the board shall receive compensation for time spent, and reimbursement for reasonable and necessary expenses incurred, in the performance of board-related duties pursuant to section eleven, article one of this chapter.

§30-13-7. Removal of members and vacancies.

The governor may remove any member of the board for misconduct, incompetency, neglect of duty or for any reason prescribed by law for removal of state officials. Vacancies in the membership of the board shall be filled for the unexpired term.

§30-13-8. Organization and meetings.

The board shall hold at least one regular meeting each year. Special meetings may be held as the bylaws of the board provide. Each year the board shall elect the following officers: A president, a vice president and a secretary, who shall serve at the will and pleasure of the board. A quorum of the board shall consist of not less than three professional engineer members.

§30-13-9. Board powers.

- (a)** The board may adopt and amend bylaws not inconsistent with the constitution and laws of this state. 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.
- (b)** The board may subpoena witnesses and compel their attendance and it may also subpoena books, papers, documents or other pertinent data in any disciplinary matters or in any case involving an allegation of a violation of the provisions of this article. The board may

apply to the circuit court of Kanawha county to enforce compliance with any subpoena it issues.

- (c)** The board may seek an injunction in circuit court to enforce the provisions of this article or to restrain a person or entity from violating a provision of this article. In pursuing injunctive relief under this section, the board shall not be required to prove that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation. The members of the board may not be personally liable for any decisions made in good faith in pursuing injunctive relief.
- (d)** The board may require all applicants for registration to take and successfully pass an examination of their fitness and qualifications to become registered.
- (e)** The board may require that a registered professional engineer demonstrate continuing professional competency in engineering as a condition of renewal or reregistration.
- (f)** Board members are exempt from civil liability for any decision made or any act done in good faith in the performance of any duty or the exercise of any power granted under this article.

§30-13-10. Receipt of fees, fund established, disbursements.

There is hereby established within the state treasury a "board of professional engineers fund." The board shall deposit all fees and other moneys received by the board into the fund. The moneys in the fund shall be used for expenses of the board and shall be requisitioned on the signatures of the president and secretary of the board. The secretary of the board shall annually furnish an accounting of all funds received and expended by the board to the governor and to each house of the Legislature. The board may use the moneys in the fund to employ necessary staff, pay for membership fees to the national council of examiners for engineering and surveying and for any other necessary and reasonable expense of the board: Provided, That the board may not issue warrants in excess of moneys in the fund.

§30-13-11. Records and reports.

- (a)** The board shall keep a record of its proceedings and of all applications for registration. The record shall show: (1) The name, age and last known address of each applicant; (2) the date of application; (3) place of business of such applicant; (4) education, experience and other qualifications; (5) type of examination required; (6) whether or not the applicant was rejected; (7) whether or not a certificate of registration was granted; (8) the date of the action by the board; and (9) such information as may be deemed necessary by the board.
- (b)** The record of the board is prima facie evidence of the proceedings of the board and a transcript duly certified by the secretary shall be admissible as evidence with the same force and effect as if the original were produced.
- (c)** On the first day of July of each year, the board shall submit to the governor a report of its transactions of the preceding year and shall transmit to the governor a complete statement of the receipts and expenditures of the board, attested to by affidavits of its chairman and secretary.
- (d)** Board records and papers of the following class are of a confidential nature and are not public records: Examination material for examinations not yet given, file records of

examination problem solutions, letters of inquiry and reference concerning applicants, board inquiry forms concerning applicants, investigation files where any investigation is still pending and all other materials of like confidential nature.

§30-13-12. Roster.

A complete roster with the names and the last known addresses of all registered professional engineers shall be published by the secretary of the board at intervals established by the board. Copies of this roster may be mailed to each person registered and shall be placed on file with the secretary of state and may be distributed or sold to county and city officials and to the public.

§30-13-13. Requirements for registration of professional engineers and certification of engineer interns.

(a) General requirements. - Every person who desires to be certified as an engineer intern or to be registered as a professional engineer in this state must comply with the following requirements:

- (1) Submission of a completed application specified by the board and payment of the application fee specified by rule of the board;
- (2) Be at least eighteen years of age;
- (3) Be of good moral character;
- (4) Submit statements of reference as specified by rule of the board;
- (5) Graduate from a four-year engineering curriculum accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (EAC/ABET), or an equivalent as approved by the board as being of satisfactory standing; and
- (6) Be free of any grounds for disqualification as set forth in subsection of (a) of section twenty-one of this article.

(b) Certification of an engineer intern. - In addition to the foregoing general requirements, an applicant must meet the following requirements to be certified as an engineer intern in this state:

- (1) Satisfactorily complete the required examination on the fundamentals of engineering; and
- (2) Complete each additional requirement that the board may specify by legislative rule.

(c) Registration of a professional engineer. - In addition to the general requirements specified in subsection (a) of this section, an applicant must meet the following requirements to be certified as a professional engineer in this state:

- (1) Meet all the requirements for certification as an engineer intern;
- (2) Submit a record of four years or more of progressive experience in engineering work of a grade and a character that indicates to the board that the applicant may be competent to practice engineering;
- (3) Satisfactorily complete the required examination on the principles and practice of engineering;
- (4) Complete each additional requirement that the board may specify by legislative

rule.

(d) Registration of a professional engineer through comity or reciprocal registration.

- Notwithstanding the requirements of the foregoing subsection of this section, the board may issue a license to an applicant who holds a valid license or other authorization to practice engineering from another state, if the applicant satisfies the general requirements of subsection (a) of this section, satisfies the additional requirements specified by rule of the board and meets one of the following requirements:

- (1) Holds a license or other authorization to engage in the practice of engineering issued by a proper authority of any jurisdiction, based on requirements that do not conflict with the provisions of this article and possesses credentials that are, in the judgment of the board, of a standard equivalent to or not lower than that specified in the applicable licensure act and rules in effect in this state at the time such license was issued, upon application, which may include a council record with NCEES; or
- (2) Holds a valid council record with NCEES, which is the compilation of documents maintained by NCEES of an applicant's qualifications as a professional engineer, including official transcripts, engineering examination results, employment verifications and references, which indicates that the applicant meets the requirements of this article.

(e) Certification or registration of qualified applicants. - The board shall issue a certification to a qualified applicant who meets the requirements for certification as an engineer intern and shall issue a professional engineer registration to a qualified applicant who meets the requirements for registration as a professional engineer.

(f) Continuation of existing registrations and certificates. - A registration or certificate issued by the board prior to July 1, 2013, shall for all purposes be considered a registration or certificate issued under this article: Provided, That a person registered or certified prior to July 1, 2013, must renew the registration or certification pursuant to the provisions of this article and the rules of the board.

§30-13-13a. Designations of nonpracticing status.

The board may designate a professional engineer as ineligible to practice or offer to practice engineering in this state using one of the following terms:

- (1) **Professional engineer-retired.** - A registrant may apply for retired status upon certification that he or she is no longer practicing or offering to practice engineering in this state for remuneration.
- (2) **Professional engineer-inactive.** - A registrant may request inactive status upon affirmation that he or she is no longer practicing or offering to practice engineering in this state.
- (3) **Professional engineer-lapsed.** - A registrant's license is lapsed when the registrant does not respond to renewal notices or pay the required fees.
- (4) **Professional engineer-invalidated.** - A registrant's license is invalidated when he or

she is unable to provide sufficient proof that any condition of renewal set forth in this article or by board rule has been met.

§30-13-14. Application and registration fee.

Every person seeking to become registered as a professional engineer or seeking to become certified as an engineer intern shall file an application on forms provided by the board. The application shall be made under oath and shall include:

- (a)** The level of education of the applicant;
- (b)** A summary of the applicant's technical experience; and
- (c)** The names and complete mailing addresses of any references. Applicants may not use the names of board members as references.

In lieu of information required on the board's application forms, the board may accept the verified information contained in a valid council record issued by the national council of examiners for engineering and surveying for professional engineer applicants.

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.

Fees of unsuccessful applicants and the fees of applicants who have been refused registration or certification for any purpose shall be retained by the board to cover administrative costs.

§30-13-15. Examinations.

- (a)** The board has the power to establish, by legislative rule, the requirements for examination for registration as a professional engineer and certification as an engineer intern including, but not limited to, the following criteria: subject matter, prerequisites for testing, passing score, examination sites and schedules, entities authorized to administer examinations, prerequisites for testing and form of testing, including examination by electronic or other means.
- (b)** The board's rules for examination shall include the following minimum requirements:
 - (1) An examination to qualify to be an engineer intern, to test the applicant's knowledge and understanding of the fundamentals of engineering; and
 - (2) An examination to qualify as a professional engineer, to test the applicant's knowledge and understanding of the principles and practice of engineering.
- (c)** If the board determines that the safe and ethical practice of engineering in this state requires examination of matters specific to the law and practice in this state, the board may also establish criteria, by legislative rule, for an examination of the applicant's knowledge and understanding of this state's statutes, rules, professional ethics and design requirements.
- (d)** A candidate for registration as a professional engineer who fails the examination of the principles and practice of engineering may retake the examination one time upon payment of the fee established by the board. In the event of a second failure, the candidate may not repeat the examination unless the examinee demonstrates to the board that he or she has pursued additional instruction or training to correct the candidate's deficit areas of knowledge.
- (e)** In the event that examination requirements, test administration procedures, scoring or testing methods are modified by a board-approved testing entity providing standard tests for use by the board, the board has the authority to promulgate emergency rules to adopt and reflect those changes.

§30-13-16. Certificates and seals.

- (a)** The board shall issue a certificate of registration to any applicant who, in the opinion of the board, has met the requirements of this article. The certificate of registration shall carry the designation "professional engineer." It shall give the full name of the registrant with their registration number and shall be signed by the chairman and the secretary under the seal of the board. The certificate of registration grants the recipient authority to practice in this state.
- (b)** An unexpired and unrevoked certificate is prima facie evidence that the person named on it is entitled to all rights, privileges and responsibilities of a professional engineer.
- (c)** Every registrant shall obtain a seal for use in identifying his or her official professional work. The design of the seal shall be determined by the board and shall bear the registrant's name, registrant's registration number, the legend "registered professional engineer, state of West Virginia" and such other words or figures as the board may prescribe. The seal may be a rubber stamp. Whenever the seal is applied, the registrant's written signature shall be adjacent to or across the seal. No further words or wording are required. A facsimile signature is not acceptable. Whenever presented to a client or any public or governmental agency, the seal, signature and date shall be placed on all specifications, reports, drawings, plans, design information and calculations in accordance with rules promulgated by the board. The seal and signature shall be used by registrants only when the work being stamped was under the registrant's complete direction and control.

In the case of a registrant of another state using a temporary permit issued by this state, the registrant shall use the state of permanent registration seal and shall affix his or her signature and temporary permit number to all work. In the case of a registrant checking the work of an out-of-state registrant, the state registrant shall completely check and have complete dominion and control of the design. The complete dominion and control includes possession of the sealed and signed reproducible construction drawings with complete signed and sealed design calculations indicating all changes in design.

- (d)** The board shall issue to any applicant who, in the opinion of the board, has met the requirements of this article, an enrollment card as engineer intern, which indicates that his or her name has been recorded in the board office. The engineer intern enrollment card does not authorize the holder to practice as a professional engineer. It is unlawful for a registrant to affix or to permit his or her seal and signature to be affixed to any document after the expiration of his or her certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade any provisions of this article.

§30-13-17. Certificates of authorization required; naming of engineering firms.

- (a)** No person or firm is authorized to practice or offer to practice engineering in this state until the person or firm has been issued a certificate of authorization by the board.
- (b)** A person or firm desiring a certificate of authorization must file all the required information with the board on an application form specified by the board. The required information shall include the sworn statement of the engineer in responsible charge who is a

professional engineer registered in this state. The board shall issue a certificate of authorization to an applicant who has met all the requirements and paid the fees set forth in board rules.

- (c)** No person or firm is relieved of responsibility for the conduct or acts of its agents, employees, officers or partners due to compliance with the provisions of this article. No individual practicing engineering under the provisions of this article is relieved of responsibility for engineering services performed due to his or her employment or other relationship with a person or firm holding a certificate of authorization.
- (d)** An engineer who renders occasional, part-time or contract engineering services to or for a firm may not be designated as being in responsible charge for the professional activities of the firm unless that engineer is an owner or principal of the firm.
- (e)** The Secretary of State shall not issue a certificate of authority or business registration or license to an applicant whose business includes, among the objectives for which it is established, the words engineer, engineering or any modification or derivation thereof unless the board of registration for this profession has issued to the applicant a certificate of authorization or a letter indicating eligibility to receive the certificate. The certificate or letter from the board shall be filed with the application filed with the Secretary of State to do business in West Virginia.
- (f)** The Secretary of State shall decline to register a trade name or service mark which includes the words engineer, engineering or modifications or derivatives thereof in its business name or logotype except those businesses holding a certificate of authorization issued under the provisions of this article.
- (g)** The certificate of authorization may be renewed or reinstated in accordance with board rule and upon payment of the required fees.
- (h)** Every holder of a certificate of authorization has a duty to notify the board promptly of any change in information previously submitted to the board in an application for a certificate of authorization.

§30-13-18. Renewals and reinstatement.

- (a)** Certificates of registration and certificates of authorization expire on the last day of December of the year indicated on the certificate, and the holder of any certificate that is not timely renewed is ineligible to practice or offer to practice engineering in this state until the certificate has been reinstated in accordance with rules promulgated by the board.
- (b)** Certificates may be renewed only in accordance with board rule, which may include payment of a late fee for renewals not postmarked by December 31 of the year in which renewal is required. The board shall notify every person or firm holding an active certificate under this article of the certificate renewal requirements at least one month prior to the renewal date. The notice shall be made by mail or electronic means using the contact information provided to the board.
- (c)** A certificate that was not timely renewed or for other reason was given a nonpracticing status may be reinstated under rules promulgated by the board and may require reexamination and payment of fees set forth in board rules.
- (d)** Effective July 1, 2015, the board may renew certificates on a biennial basis.

(e) The board shall promulgate emergency rules pursuant to section fifteen, article three, chapter twenty-nine-a of this code to implement the provisions of this section.

§30-13-19. Reissuance of certificates.

A new certificate of registration or certificate of authorization to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the board. A charge established by rule shall be made for each new certificate.

§30-13-20. Public works.

Government agencies, authorities, officials and employees may not engage in the practice of engineering involving either public or private property unless the provisions of this article are met.

§30-13-21. Disciplinary action — Revocation, suspension, refusal to issue, restore or renew, probation, civil penalty, reprimand.

- (a)** The board may suspend or revoke or refuse to issue, restore or renew a certificate of registration of, or place on probation, impose a civil penalty or reprimand any professional engineer who has:
- (1) Perpetrated any fraud or deceit in obtaining or attempting to obtain or renew a certificate of registration or certificate of authorization;
 - (2) Been negligent, incompetent or committed an act of misconduct in the practice of engineering;
 - (3) Been convicted of or has entered a plea of nolo contendere to any crime under the laws of the United States or any state or territory thereof, which is a felony whether related to practice or not; and conviction of or entry of a plea of nolo contendere to any crime, whether a felony, misdemeanor or otherwise, an essential element of which is dishonesty, or which is directly related to the practice of engineering;
 - (4) Failed to comply with any of the provisions of this article or any of the rules promulgated under it;
 - (5) Been disciplined by another state, territory, the District of Columbia, foreign country, the United States government or any other governmental agency, if at least one of the grounds for discipline is the same or substantially equivalent to those grounds for discipline contained in this article;
 - (6) Failed within thirty days to provide information requested by the board as a result of a formal or informal complaint to the board which would indicate a violation of this article;
 - (7) Knowingly made false statements or signed false statements, certificates or affidavits to induce payment;
 - (8) Aided or assisted another person in violating any provision of this article or the rules promulgated;
 - (9) Violated any terms of probation imposed by the board or using a seal or practicing engineering while the professional engineer's license is suspended, revoked, nonrenewed or inactive;
 - (10) Signed or affixed the professional engineer's seal or permitted the professional engineer's seal or signature to be affixed 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 or control;

- (11) Engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public;
- (12) Provided false testimony or information to the board; and
- (13) Been habitually intoxicated or addicted to or by the use of drugs or alcohol.

(b) In addition to any other penalty provided in this article, the board may assess civil penalties against any person who violates any provision of this article or any rule promulgated by the board for each offense in an amount determined by the board.

(c) The board shall prepare and shall adopt "rules of professional responsibility for professional engineers." The board may revise and amend these "rules of professional responsibility for professional engineers" from time to time and shall notify each registrant in writing of any revisions or amendments.

(d) The board may:

- (1) Revoke a certificate of authorization;
- (2) Suspend a certificate of authorization of any firm for a period of time not exceeding two years where one or more of its officers or directors of the firm have been found guilty of any conduct which would authorize a revocation or suspension of his or her certificate of registration under the provisions of this article;
- (3) Place the person or firm on probation for a period of time and make the person or firm subject to conditions as the board may specify;
- (4) Assess a civil penalty and related costs for each count or separate offense in an amount set by the board.

§30-13-22. Disciplinary action — Procedures.

(a) Any person may file a complaint with the board that a person or firm subject to the provisions of this article has committed a fraud, been deceitful, been grossly negligent, incompetent, guilty of misconduct or has violated the "rules of professional responsibility for professional engineers."

(b) All complaints, unless dismissed by the board as unfounded, trivial or unless settled informally, shall be heard by the board within six months after the date each complaint was received by the board.

(c) The board shall fix the time and place for hearings on complaints and a copy of all charges, together with a notice of the time and place of hearing on the complaint the person or firm complained against or mailed to the last known address of the person or firm at least thirty days prior to the hearing. At the hearing, the person or firm shall have the right to appear in person or by counsel, or both, to cross-examine witnesses and to produce evidence and witnesses in his, her or its defense. If the accused person or firm fails or refuses to appear, the board may proceed to hear the complaint and determine the validity of the charges.

(d) If after the hearing a majority of the board votes in favor of sustaining the charges, the board shall reprimand or assess a civil penalty against the person or firm complained against.

The board may also suspend, revoke, refuse to issue or refuse to restore or renew an individual's certificate of registration or a firm's certificate of authorization. In addition, the board may place a registrant on probation.

- (e) Any person or firm aggrieved by any action of the board in assessing a civil penalty, denying, suspending, refusing to issue, refusing to restore or renew or revoking a certificate of registration or a certificate of authorization, may appeal the board's decision to the circuit court.
- (f) Any civil penalty assessed as a result of a hearing shall be paid within fifty days after the decision becomes final.
- (g) The board may, upon petition of a person or firm, reissue a certificate of registration or authorization, provided that a majority of the members of the board votes in favor of such issuance.

§30-13-23. Criminal offenses.

Any person who practices or offers to practice engineering in this state without being registered in accordance with the provisions of this article, or any person, firm, partnership, organization, association, corporation or other entity using or employing the words engineer, engineering or any modification or derivative thereof in its name or form of business activity except as authorized in this article, or any person presenting or attempting to use the certificate of registration or the seal of another, or any person who gives any false or forged evidence of any kind to the board or to any member thereof in obtaining or attempting to obtain a certificate of registration, or any person who falsely impersonates any other registrant of like or different name, or any person who attempts to use an expired, suspended or revoked or nonexistent certificate of registration, or who practices or offers to practice when not qualified, or any person who falsely claims that he or she is registered or authorized under this article, or any person who violates any of the provisions of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

Any person who commits a second or subsequent offense under this section is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than ten nor more than twenty years.

The attorney general may act as legal adviser to the board and render any legal assistance as may be necessary in carrying out the provisions of this article. The board may employ counsel and necessary assistance to aid in the enforcement of this article and the compensation and expenses of the council shall be paid from the funds of the board.

§30-13-24. Exemptions.

This article may not be construed to prevent the practice by:

- (a) **Other professions.** – The practice of any other legally recognized profession;
- (b) **Temporary permits.** – The practice or offer to practice engineering by a person not a resident of or having no established place of business in this state, provided the person is legally qualified by registration to practice engineering, as defined in this article, in their own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a written permit for a definite period of time not to exceed one year to do a specific job: Provided, That no right to

practice engineering shall accrue to the applicant with respect to any other works not set forth in the permit; and

(c) Employees and subordinates. – The work of an employee or a subordinate of a person holding a certificate of registration under this article, or an employee of a person practicing lawfully: Provided, That the work does not include final engineering designs or decisions and is done under the direct supervision of and verified by a person holding a certificate of registration under this article or a person practicing lawfully. Any regular full-time employee of a person, partnership, corporation or other business entity who is engaged solely and exclusively in performing services for such person, partnership, corporation or other business entity, who is not required by any provision of the law other than this article to be a registered professional engineer and whose services are performed on, or in connection with, property owned or leased by such person, partnership, corporation or other business entity, or in which such person, partnership, corporation or other business entity has an interest, estate or possessory right, and are not offered or made available to the public. This exemption includes the use of job title and personal classification by such person, but no name, title or words may be used which tend to convey the impression that an unlicensed person is offering professional engineering services to the public.

§30-13-25.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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Title 7

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.** – May 5, 2022
- 1.4. Effective Date.** – August 1, 2022
- 1.5. Sunset Provision.** – This rule shall terminate and have no further force or effect on August 1, 2030.
- 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 April 1, 2020.

§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.
- 2.15. "NCEES"** means the National Council of Examiners for Engineering and Surveying.
- 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.
- 2.17. "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.
- 2.18. "PE exam"** means the Principles and Practice of Engineering Examination.
- 2.19. "Registrant"** means a PE.
- 2.20. "Satisfactory"** means that which a reasonable person would find acceptable for purposes of applying to the Board for licensure.
- 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.

(a) PE Application. A person applying to the Board for 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.

(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.

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

(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.

- (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.
- (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.**

(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.

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

(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.

(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.

(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.

(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.**

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

- (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;

- (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) The references required in §7-1-3.7 of these rules;
 - (4) One (1) passport-like photo taken within six (6) months of the date of application;
 - (5) Such fee(s) as are required in §7-1-13.4 of these rules, including the non-refundable application fee.
 - (6) Verification of passage of the FE and PE exams.
- (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.

(c) Specific application requirements.

- (1) **Comity Applicant.** In addition to the requirements set forth in this section, comity applicants shall also provide verification of current registration in a jurisdiction where they currently live and/ or work.
- (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.

- (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)(5) is interpreted by this Board to mean a person who has:
- (1) a Baccalaureate Degree in Engineering from a school whose curricula are accredited by ABET at the time of the awarding of the degree;
 - (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) 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;
 - (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.
- (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.

- (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:
 - (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.
 - (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.

(a) Requirements.

- (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.

(b) Satisfactory Experience.

- (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.
- (2) The experience 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) Upon review of the completed application package, the Board may credit experience based on the following:
 - (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.
 - (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.
 - (C) **Teaching.** The Board may classify the teaching of courses in ABET-approved programs as satisfactory experience.

- (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).
- (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.

(c) Verifications. The verifications shall include the following:

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

- (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.
- (b)** An applicant may not use a relative or a current Board member as a reference.
- (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.

- (a)** The application must be complete as set forth in §7-1-3.4 of these rules before the Board considers the application.
- (b)** The Board may approve, defer, or deny an application.
- (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.

- (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.
- (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.

(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:

- (1) The nature and seriousness of the crime for which the individual was convicted;
- (2) The passage of time since the commission of the crime;
- (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) Any evidence of rehabilitation or treatment undertaken by the individual.

(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:

- (1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;
- (2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and
- (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.

- (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, and the specific nature of the conviction.
- (1) An individual may include with the petition evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant.
 - (2) The Board shall provide the determination within 60 days of receiving the petition.

§7-1-5. Examinations.

5.1. Examinations Generally.

- (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.
- (b) Language of the Examination.** The language used in the examination is English.
- (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.
- (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.
- (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.

- (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.
- (b)** Information regarding NCEES administration of the PE examination including times, dates and locations is available from both the Board and NCEES.
- (c)** Persons wanting to take the PE examination shall apply for the PE directly with NCEES without prior approval of the Board.
- (d)** PE examinees will be notified by NCEES whether the examinee passed or failed the examination.

(e) Additional Branches/Disciplines.

- (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.
- (2) If an applicant fails to pass the examination in an additional branch/ discipline, he or she retains his or her current registration status.
- (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.

- (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.
- (b)** Information regarding NCEES administration of the FE examination including times, dates and locations is available from both the Board and NCEES.
- (c)** Persons wanting to take the FE examination shall apply for the FE directly with NCEES without prior approval of the Board.
- (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.
- (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:

- (a)** Professional Engineer;
- (b)** Engineer Intern; or
- (c)** Professional Engineer-Retired.

6.2. Professional Engineer.

- (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.
- (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.
- (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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(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:

- (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.
- (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.
- (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:
- (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."
 - (e)** The seal may be a rubber stamp, electronic or one that embosses.
 - (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.

- (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.

- (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.
- (c)** Revisions shall be numbered, dated, initialed, and sealed by the registrant responsible for the revision.
- (d)** When copies are to be made, the registrant's seal and signature on all originals, tracings or other documents shall be reproducible.
- (e)** Each registrant is solely responsible for the use of his or her seal.
- (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.
- (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.
- (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.

- (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.
- (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.
- (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.
- (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:
 - (a)** Successful completion of college courses;
 - (b)** Successful completion of continuing education courses;
 - (c)** Successful completion of on-line, correspondence, televised, videotaped, and other short courses or tutorials;
 - (d)** Actively participating in seminars, in-house courses, workshops, technical committees of professional engineering organizations, and professional conventions;
 - (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
 - (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 patent on | 10 |

- 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.

- (a) Any registrant may be audited, including Board members and staff.
- (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.
- (c) Any renewal forms submitted with questionable continuing education shall be added to those selected at random for verification.
- (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.
- (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.
- (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:

- (a) A new registrant by way of examination or reciprocity is exempt for his or her 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. The Board shall follow all other laws regarding continuing education for licensees on active duty and their spouses to the extent applicable and appropriate;
- (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

- (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.

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:

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

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

(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.

(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.

(b) **Renewals.**

(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.

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

(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.

(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. 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:

- (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.
- (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.
- (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.

- (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.

- (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.
- (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.

12.3. 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 designs, plans or other documents 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 other appropriate authority when their professional judgment is overruled under circumstances where the life, health, property, or 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 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.
- (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.
- (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.

- (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 except in accordance with §30-13-1 et seq. and these rules.
- (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.

- (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.

- (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.
- (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.
- (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.

- (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.
- (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.
- (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.

- (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.
- (b)** A registrant or firm shall pay renewal fees on or before December 31st of the year of expiration.
- (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.
- (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 | \$23.00 |
| Examination Fee | As charged by NCEES |
| Professional Engineer | |
| Application Fee | \$72.00 |
| Examination Fee | As charged by NCEES |
| Re-examination Fee | As charged by NCEES |
| Certificate Fee | \$23.00 |
| Comity Application Fee | \$135.00 |
| Certificate of Authorization | |
| Application Fee for Sole Proprietor with no employees | \$ 0.00 |
| Application Fee for Firm with three or fewer Professional Engineers* | \$90.00 |
| Application Fee for Firm with four or more Professional Engineers* | \$135.00 |
| Two-Year Renewal Fee | |
| Professional Engineer | \$63.00 |
| Professional Engineer-Retired | \$27.00 |
| COA for Sole Proprietor with no employees | \$ 0.00 |
| COA for Firm with three or fewer Professional Engineers* | \$90.00 |
| COA for Firm with four or more Professional | |

| | | |
|---|----------|--|
| Engineers* \$450.00 | Late fee | 25% |
| of fee | | |
| Reinstatement Applications | | |
| Professional Engineer | | \$167.00 |
| COA for Sole Proprietor with no employees | | \$ |
| 0.00 COA for Firm with three or fewer Professional Engineers* | \$180.00 | COA for Firm with four or more Professional Engineers* |
| | \$630.00 | |
| PE or COA Roster** | | \$ 23.00 |
| Replacement Certificates | | \$ 23.00 |
| Returned Checks | | \$ 23.00 |

* *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.**
- (a) Fees set forth in this section may be waived in accordance with Board policy.
 - (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.
 - (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:

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

C O N T E N T S

§7-2-1. General.

§7-2-2. Complaints.

§7-2-3. Hearing Panel.

§7-2-4. Procedural Rules for Hearings.

§7-2-5. Disposition of Complaints.

TITLE 7 – SERIES 2

ADMINISTRATIVE HEARING PROCEDURES

§7-2-1. General.

1.1. Scope. — This rule specifies the procedure for Resolution of complaints relating to the practice of engineering in this State pursuant to the authority granted to the West Virginia State Board of Registration for Professional Engineers by W. Va. Code §30-13-1 et seq.

1.2. Authority. — W. Va. Code §30-13-1 et seq. and §30-1-1 et seq.

1.3. Filing Date. — June 22, 2004.

1.4. Effective Date. — July 23, 2004.

§7-2-2. Complaints.

2.1. Submission.

- (a) **Form.** The form of complaints shall be determined by the Board. All complaints shall be in writing and verified by the complainant before a notary public.
- (b) **Who may submit.** A complaint may be submitted by any natural person or legal entity, any registered engineer, or any firm holding a certificate of authorization. A complaint may be submitted by the Board, a member of the Board staff, with or without direction from the Board, or a member of the Board. Charges may be based upon information received solely through investigative activities undertaken by the Board.

2.2. Filing.

- (a) The applicable statute provides for disposition of a complaint if trivial, unfounded, or settled informally. Unless in the opinion of at least one member of the Board the alleged situation which is the subject of a

complaint presents an imminent danger to health or safety, a complaint will be deemed received and filed only upon the majority vote of the Board members present and meeting in general session. Until such action, the complaint will be on the agenda for each meeting until resolved informally or filed. During the period before a complaint is deemed filed, the Board may take appropriate action, upon motion

and consistent with the applicable statutes, to investigate and settle the complaint informally.

- (b) A complaint will not be considered by the Board until an original is delivered to and logged in and numbered by the Board Administrator at Charleston during normal business hours. Facsimile and other electronic transmission of complaints will be accepted for filing, provided originals are delivered to the Board Administrator within fourteen (14) days thereafter.

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

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

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

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

§7-2-3. Hearing Panel.

3.1. Hearing Panel.

- (a) Complaints regarding persons licensed by the Board and complaints regarding unlawful practice of engineering in this State or a request for hearing regarding licensure or issuance of a certificate of authorization shall be heard and decided by the

Board as a whole sitting as a Hearing Panel, except that any member of the Board who has a conflict of interest with regard to a particular complaint may decline to participate

in such proceedings. Recusal is mandatory in any proceeding in which a judge, similarly situated, would be required to exercise recusal. The filing of a complaint by a Board member will not automatically be grounds for recusal. Recusal shall not prevent a Board member from testifying as a witness.

- (b)** If recusals result in there being less than a quorum, the remaining unrecused members of the Board shall appoint a registered professional engineer who is not a member of the Board for each recused member to serve solely for the purposes of hearing and deciding such complaint.
- (c)** The Hearing Panel shall conduct hearings, make findings of fact and conclusions of law, and issue administrative decisions and orders to enforce the provisions of W. Va. Code §30-13-1 et seq.

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

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

3.4. Presiding at Hearings.

- (a)** The President of the Board shall serve as the presiding officer at hearings. In the event of the President's recusal, the Hearing Panel shall elect a presiding officer from among themselves who will preside for hearings on that complaint.
- (b)** The presiding officer shall have the power to (1) administer oaths and affirmations, (2) rule upon offers of proof and receive relevant evidence, (3) regulate the course of the hearing, (4) hold conferences for the settlement or simplification of the issues by consent of the parties, and (5) dispose of procedural requests or similar matters.

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

§7-2-4. Procedural Rules for Hearings.

4.1. Notice of Hearings.

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

time to time, for cause shown as the interests of justice may require.

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

4.3. Hearings Generally.

(a) Conduct and Order of Hearing.

- (1) Upon calling on for hearing any complaint, the presiding officer may cause the complaint to be read and shall offer the respondent the opportunity to reply. The Hearing Panel may receive evidence from its investigator or staff. Respondent, directly or by counsel, may present evidence in defense against the complaint. All testimony given shall be subject to cross-examination by the opposing party. The Board may receive rebuttal evidence after respondent's presentation. Any member of the Hearing Panel may inquire to any witness at any time.
- (2) After the receipt of all evidence, respondent and Board staff, directly or by counsel, may be allowed to make closing arguments.
- (3) If the respondent is not a natural person, the respondent shall be represented by counsel. The Board or its staff may be represented by counsel.
- (4) Failure of the respondent to appear, without cause, shall not result in delay or postponement of the hearing.

(b) The Record. The record of a hearing shall consist of the testimony and documentary and physical evidence admitted into evidence by the Hearing Panel, all judicially cognizable facts so noticed, and the administrative decision or order ruling upon the complaint. All hearing proceedings on the record shall be recorded by stenographic means. Any party may obtain a transcript of the proceedings at the party's expense.

(c) Testimony. Witnesses shall testify under oath or affirmation.

(d) Evidence.

- (1) The West Virginia Rules of Evidence shall apply. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The Hearing Panel shall be bound by the rules of privilege recognized by law. Objections to evidentiary offers and the ruling thereupon shall be noted in the record. Any party to any such hearing may vouch the record as to any excluded testimony or other evidence.
- (2) Only the evidence admitted into the record and judicially cognizable facts so noticed shall be considered in the determination of the complaint.
- (3) Depositions may be taken and read or otherwise received as evidence in accordance with Rules 30 and 32 of the West Virginia Rules of Civil Procedure.

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

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

(g) Open Meetings and Executive Sessions. Pursuant to W.Va. Code §6-9A-1, the Board may by majority vote hold hearings under these rules in executive session unless the respondent requests an open meeting. In any event, the vote upon the final decision of the Hearing Panel shall be in open session.

4.4. Standard of Proof. To impose any sanction or penalty, the findings of the Hearing Panel in support thereof must be proved by a preponderance of the evidence.

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

4.6. Criminal Convictions.

(a) An engineer who has been convicted of a crime that reflects adversely on the engineer's honesty, trustworthiness or fitness as an engineer, or of any felony, shall, within thirty days of entry of the order or judgment of conviction, forward a copy of the order or judgment to the Board's Administrator. A plea or verdict of guilty or a conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this rule. Any other person may file a copy of the order or judgment with the Board.

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

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

4.7. Reciprocal Discipline.

- (a)** A final adjudication in another jurisdiction, whether state or federal, of misconduct constituting grounds for discipline of a registered professional engineer in that jurisdiction or a voluntary surrender of a license to practice engineering in connection with a disciplinary proceeding in that jurisdiction shall, for the purposes of proceedings under these rules, conclusively establish such conduct.
- (b)** A registrant in this State against whom any form of public discipline has been imposed by the authorities of another jurisdiction, whether state or federal, or who voluntarily surrenders his or her license to practice engineering in connection with such disciplinary proceedings shall notify the Board of such action in writing within ten days thereof. Failure to notify the Board shall constitute an aggravating factor in any subsequent disciplinary proceeding. Any other person may notify the Board of such action by submitting a complaint.
- (c)** If the registrant intends to challenge the validity of the disciplinary order entered in the foreign jurisdiction or the voluntary surrender of his or her license to practice engineering in connection with a disciplinary proceeding, the registrant must request a formal hearing and file with the Board a full copy of the record of the disciplinary proceedings which resulted in imposition of the disciplinary order or the voluntary surrender of a license to practice engineering.

§7-2-5. Disposition of Complaints.

5.1. Administrative Decisions and Orders.

- (a)** Any party may submit proposed findings of fact and conclusions of law as permitted in the discretion of the presiding officer.
- (b)** After a hearing upon a complaint is completed, including an instance in which the respondent defaults, the Hearing Panel may make findings of fact and conclusions of law and shall issue the appropriate administrative decision or order.
- (c)** The Hearing Panel may make findings of fact and conclusions of law in connection with the hearing and in conformity with applicable law notwithstanding the failure of the complaint to allege the grounds therefor.
- (d)** Informal disposition may also be made of any complaint by stipulation, agreed settlement, or consent order provided, however, that a hearing upon any pending complaint set pursuant to Rule 4.0 shall not be cancelled other than by a respondent's acceptance of such proposed informal disposition.
- (e)** All dispositions of complaints shall be signed by the presiding officer. A copy shall be maintained in the permanent records of the Board.
- (f)** The official determination of the Hearing Board shall be made by majority vote of the Hearing Panel. The presiding officer shall vote in every matter but shall reserve his vote to the last. Any minority of the Hearing Panel may preserve its opinion in written form submitted at or not less than ten days after the entry of the majority's administrative decision or order.

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

- 5.2. **Unlawful Practice.** In addition to disciplinary actions authorized by W. Va. Code §30-13-21, if the administrative decision or order finds that the respondent is engaging in the practice of engineering in this state without being registered, the Board may request the prosecutor of any county to prosecute the respondent pursuant to W. Va. Code §31-13-23 or the Board may file a complaint seeking an injunction to enforce the provisions of W. Va. Code §31-13-1 et seq. Nothing in these rules shall prohibit the Board from requesting prosecution or seeking an injunction without prior notice and opportunity for hearing to the person who is believed to be in violation.

Other Relevant Code Sections and Related Rules

Chapter 5G – Procurement of Architect-Engineer Services by State and Its Subdivisions

§5G-1-1 et seq. – Requires procurement of architectural and/or engineering services on the basis of demonstrated competence and qualifications for the type of professional service required (also known as Qualification-Based Selection or QBS). Applicable to all state agencies, including quasi-public corporations, and all political subdivisions (cities, counties, boards of education and public service districts).

Chapter 6 - Open Governmental Proceedings

§6-9A-1 et seq. – Also known as “**The Sunshine Law**,” the open meetings law applies to the WV PE Board and all governing bodies of public agencies. As required by that act, notices of all meetings of the WV PE Board are published in the State Register at least five days before the meeting and also posted under Meeting Notices on the WV Secretary of State’s website.

Chapter 21A – Unemployment Compensation

§21A-2-6(17) – This code section required the Employment Programs Bureau Commissioner to promulgate rules prohibiting state agencies from granting, issuing or renewing a license, certificate or other authority to conduct a trade, profession or business whose unemployment compensation account is in default. See Title 96, Series 1 of the Code of State Rules.

Chapter 23 – Workers’ Compensation

§23-1-1b(g)(16) – This code section required [now the Insurance Commissioner] to promulgate rules prohibiting state agencies from granting, issuing or renewing a license, certificate or other authority to conduct a trade, profession or business whose workers’ compensation account is in default. See Title 85, Series 32 of the Code of State Rules.

Chapter 29A - State Administrative Procedures Act

Some of the articles of particular relevance to the WV PE Board and its licensees are:

§29A-1-1 et seq. Definitions and Application of Chapter - Applicable to all WV agencies (boards, commissions, departments, offices and officers) of the executive branch of government.

§29A-3-1 et seq. Rule Making – Explains the differences in legislative, emergency, procedural and interpretive rules and sets forth the requirements for adopting each type.

§29A-5-1 et seq. Contested Cases and **§29A-6-1 et seq.** Appeals – The procedures set forth here may be applicable if there are no more specific procedures in WV Engineering Law or in §30-1-8 (procedures applicable to all licensing boards).

Chapter 29B – Freedom of Information Act

West Virginia's open records law requires that public records must be made available upon request. All public bodies are subject to the law, including the WV PE Board. The act defines public records, exempts certain records, and sets forth procedures for requesting and obtaining the records and enforcing the act.

Chapter 30 – Professions and Occupations

§30-1-1 et seq. – These general provisions are applicable to all WV professional licensing boards and address several topics such as meetings, disciplinary proceedings, and other powers and duties of licensing boards.

Chapter 48 – Domestic Relations

§48-15-1 et seq. – Enforcement of Support Order Through Action Against License, including

§48-15-303 – License applicant must certify, under penalty of false swearing, information regarding any child support obligation, and action may be taken against a licensee for failure to pay child support or appear at certain proceedings.

