



West Virginia State Board of Registration
for Professional Engineers

304-558-3554 Phone
304-558-6232 Fax
800-324-6170 Toll Free
www.wvpebd.org

October 10, 2018

The Honorable Jim Justice
Governor, State of West Virginia
State Capitol Building
1900 Kanawha Boulevard, East
Charleston, WV 25305

RE: Regulatory Review Per Executive Order No. 3-18

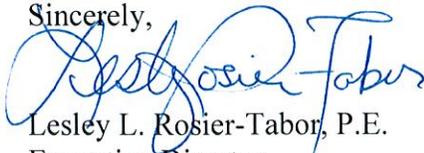
Dear Governor Justice:

On behalf of the West Virginia State Board of Registration for Professional Engineers, we are pleased to provide you with our Regulatory Review of all rules under our jurisdiction. This report is hereby submitted in compliance with Executive Order No. 3-18 to both your office as well as the Legislative Rule-Making Review Committee in advance of the November 1, 2018 deadline.

In order to safeguard life, health and property and to promote the public welfare, the practice of engineering in this state is declared to be subject to regulation in the public interest. Our agency is charged with the administration and enforcement of the provisions of Article 13 of Chapter 30 of the WV Code and Title 7 Legislative Rules governing the practice of professional engineering. Following the required comprehensive review of both Legislative Rules §7-1 and §7-2, enclosed you will find the requested information regarding each series under our agency's jurisdiction. Included is a description of the rule, the date of the first promulgation of the rule and any subsequent modifications, as well as determination/reasoning of whether the rule should be continued without change.

In closing, please recognize that the WV State Board of Registration for Professional Engineers continues to strive to provide superior service to the engineering students, the engineering professionals, and the citizens of our great state! Should you have any comments or questions, please do not hesitate to contact our office.

Sincerely,



Lesley L. Rosier-Tabor, P.E.
Executive Director

Cc: WV Legislative Rule-Making Review Committee

**WEST VIRGINIA STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS**

**REGULATORY REVIEW BOARD REPORT
DUE NOVEMBER 1, 2018**

**LEGISLATIVE RULES FOR THE WEST VIRGINIA
STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS**

TITLE 7, SERIES 1

Examination, Licensure and Practice of Professional Engineers

DESCRIPTION:

This legislative rule is considered a general rule that covers several items regulated by the Board. These items include:

Applications Process and Requirements for “Engineering Intern” certification and “Professional Engineer” licensure;
Board Action on Applications for Certification and Licensure;
Examination - Designation of Testing Body;
Engineering Registration and Certification;
Status Designations of Licensees;
Seals and Usage;
Temporary Permits;
License Expiration, Renewals and Reinstatements;
Continuing Professional Competency;
Certificates of Authority;
Rules of Professional Responsibility;
Fees;
Enforcement, Investigations, Disciplinary Action and Costs;
Civil Penalties for Violation of Engineering Laws and/or Rules;
Board Policies; and
Severability.

According to the Administrative Law Section of the WV Secretary of State’s website and more than 40 years of Board records, the rule was first promulgated on December 30, 1972, with modifications effective on the following dates:

04/05/1973	04/07/1988
10/15/1973	05/09/1991
02/28/1977	06/16/1993
11/29/1979	07/01/2001
04/15/1980	07/01/2004
11/30/1981	01/02/2014
12/12/1982	07/19/2016
05/05/1986	

DETERMINATION:

The Board is currently considering this rule for possible changes. Nationally, there is a movement to permit applicants to sit for the Principles and Practice (PE) professional engineering exam prior to fulfilling the work-experience requirement. This movement is known as “decoupling.” The Board has not yet completed its study. At this time, the Board proposes the rule be continued with no changes.

REASONS:

The engineering licensing community is served by the National Council of Examiners for Engineering and Surveying (NCEES). NCEES is gradually assuming the primary role in overseeing the examination of professional engineers and has already done so for engineer interns. Several of the Board’s recent changes to its legislative rules have been necessitated by changes at the national level, especially with regard to computer-based testing (CBT). We expect these changes to continue. Several years ago, NCEES took over administration of the examinations, but the state boards still approved applicants as eligible to take the exam. Then, with the advent of CBT testing for the Fundamentals of Engineering Exam (FE), which is required to become an Engineer Intern and to sit for the Principles and Practice Engineering Exam (PE), application to take the FE was moved to NCEES. This required both changes to West Virginia statute and rules (Article 13 of Chapter 30 of the Code and Title 7 Legislative Rules). Some flexibility – and the authority to file emergency rules – was written into exam-related sections of Chapter 30, Article 13 and the related rules so that the Board could adapt to this changing environment. That has been helpful, as NCEES is moving toward CBT testing for PEs as well. However, those seeking to take the PE exam must still apply to the Board for approval to take the test.

Under current rules, a graduate of an engineering curriculum of four years or more approved by the Board must have earned an additional four to six years of acceptable engineering experience before he or she can sit for the PE exam. There is a growing trend within the engineering licensing community to ‘decouple’ the experience requirement from the eligibility criteria for applying for approval to take the PE exam. “Decoupling” allows the engineering graduate to take the PE exam any time after he or she graduates and passes the FE exam without the need to have four years of experience in the profession prior to applying for the exam. Upon successfully passing the exam, the individual would continue to earn the required experience and be permitted to apply for licensure immediately upon meeting the experience requirement. Currently, there are a number of state Boards who have adopted this approach with others considering the necessary legislative changes to follow.

The West Virginia Board is interested in allowing this flexibility based on the recognition that successful examination may be easier the closer it is to the education component of what we call the “three-legged stool” – education, examination and experience. While we have not finalized the proposed changes, it is likely that at least current rules 7-1-3.1(a), 3.4(a) and 5.2, and some of the examination-related fees (7-1-13.4) will need to be modified.

At this time, the Board is not prepared to modify this rule to reflect the “decoupling” but will continue to study the impact of such a change by those states who have moved forward with this initiative. Allowing the engineering graduate flexibility on when to sit for the PE exam would reduce the regulatory impact of existing rules and therefore the Board is certainly considering this change in the near future.

**PROCEDURAL RULES FOR THE WEST VIRGINIA
STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS**

**TITLE 7, SERIES 2
Administrative Hearing Procedures**

DESCRIPTION:

This rule is a procedural rule which governs the Board's administrative hearing process for the resolution of complaints relating to the practice of engineering in this state.

According to agency records as well as those available via the WV Secretary of State's Office Administrative Law website, this rule was first promulgated on March 1, 2001, with a modification effective on the following date:

07/23/2004

DETERMINATION:

The Board is not considering any changes to this rule. At this time, the Board proposes the rule be continued with no changes.

REASONS:

This rule is the Board's administrative hearing procedure which governs the ability of Respondents (persons or entities who are the subject matter of complaints) to resolve such complaints lodged against them. Adverse results are appealable to circuit court. Although the Board's procedural rules have not been modified since 2004, our Board and counsel from the Attorney General's Office have worked together in successfully administering the Board's complaint process for nearly fifteen years. The Board has not determined any deficiencies in the administrative procedure which requires any additions, corrections or deletions to this rule at this time.