

**State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Design Professionals
Board of Registration for Professional Engineers
1511 Pontiac Avenue, Bldg. 68
Cranston, Rhode Island 02920**

Public Notice of Proposed Rulemaking

Pursuant to the provisions of 5-8-8, 42-14-17, and 42-35-3 of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to repeal The Administrative Rules of the Board of Registration for Professional Engineers.

The purpose of this repeal is to allow for the simultaneous adoption of the Rules and Regulations for Professional Engineering in the State of Rhode Island.

The proposed repealed is available for public inspection at www.dbr.ri.gov, in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or by email to Neena.Savage@dbr.ri.gov or by calling Neena Sinha Savage at (401) 462-9540.

In the development of the proposed repeal consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed repeal by February 19, 2014 to Neena Sinha Savage, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, RI 02920, (401) 462-9540, Neena.Savage@dbr.ri.gov. A public hearing to consider the proposed amendments shall be held on **April 4, 2014 at 9:00 am** at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard.

All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email DBR.directorofficeinquiry@dbr.ri.gov at least three (3) business days prior to the hearing.

Paul McGreevy
Director, Department of Business Regulation

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PURPOSE OF CERTIFICATE OF AUTHORIZATION

~~—Pursuant to the provisions of the Rhode Island registration law regarding engineering (R.I.G.L. Title 5, Chapter 8, as amended), any firm who practices or offers to practice engineering within the State of Rhode Island must obtain a certificate of authorization to do so prior to practicing or offering to practice engineering in this State. That certificate of authorization is issued by this Board after application and review by the Board. A firm is defined by Rhode Island General Laws as a corporation, partnership, or sole proprietorship. "Firms" which have one (1) person employed by the firm (regardless of the official title of that position i.e. secretary, engineer, etc...), may be eligible for a waiver of the fee assessed for a certificate of authorization if that person is in responsible charge. The decision to grant such "waiver" will be made by the Board after application and review by the Board. Each firm which obtains a certificate of authorization must designate one or more engineers registered in the State of Rhode Island as being in responsible charge of all engineering work. The failure to so designate an engineer shall result in denial of the application.~~

~~—Individual registrations are intended to allow Professional Engineers who are not acting under the control, supervision, or authority of a "firm" to practice engineering within the State of Rhode Island. As an individual registrant, this Board will ascribe personal liability to the work product of that engineer and will not substitute the name of any corporation, partnership and/or sole proprietorship for that of the individual engineer. The obtaining of an individual registration as a Professional Engineer in this State does not entitle a person to a certificate of authorization for a corporation, partnership or sole proprietorship automatically. A certificate of authorization must be applied for and obtained from this Board.~~

~~—Regardless of the type of registration or certificate obtained from this Board, no person or firm may practice or offer to practice engineering in the State of Rhode Island without proper authorization from this Board. The practice of engineering in this State is defined by Rhode Island General Laws, Title 5, Chapter 8, and is strictly applied by this Board. No person or firm may practice or offer to practice engineering in this State under the "agency" of another person or firm unless full and complete compliance with Rhode Island General Laws has been obtained.~~

PROCEDURAL RULE

C.O.A./SECRETARY OF STATE AND AFFIDAVIT

~~———— Based upon previous discussions between the Rhode Island Board of Registration for Professional Engineers and the Rhode Island Secretary of State's Office, no firm which offers or represents that it practices or offers to practice engineering in the State of Rhode Island will be permitted to be incorporated as an engineering firm or otherwise register at the Secretary of State's office until such time as this office has confirmed to the Secretary of State's Office (Corporation Division) that a current Certificate of Authorization and/or that an individual registered as a Professional Engineer in the State of Rhode Island is listed as being in responsible charge or associated with that firm. In order to facilitate this process, the Board and the Secretary of State's Office have agreed to the following procedure:~~

~~(1) — The Secretary of State's Office will submit to the Board a listing of any firm who seeks to register with the Secretary of State's Office to practice or offer to practice engineering in the State of Rhode Island.~~

~~(2) — Upon receipt of the name from the Secretary of State's Office, the Board will review the name and determine whether or not the individual is registered and/or that a Certificate of Authorization has been approved and issued.~~

~~———— (3) — Upon determination by this Board as to the status of any registration, the Board will telephonically notify the Secretary of State's Office of the results of that review and will follow up with the form memo listing the name of the individual and/or the firm and the status of any application.~~

~~———— (4) — This process must be completed within forty eight (48) hours of the receipt of the identifying information from the Secretary of State's Office.~~

**~~FORM LETTER REGARDING SECRETARY OF STATE'S OFFICE
APPROVAL/DENIAL OF CERTIFICATE OF AUTHORIZATION~~**

~~———— Pursuant to the provisions of Title 5, Chapter 8, paragraph 24, of the Rhode Island General Laws, the firm herein named has been (approved/denied/or not applied for) a Certificate of Authorization to practice or offer to practice engineering within the State of Rhode Island. — Any firm which has not been approved and issued a Certificate of Authorization shall not be permitted pursuant to the provisions of Title 5, Chapter 8 of the Rhode Island General Laws to practice or offer to practice engineering within this State. If you have any questions, please feel free to contact the Board and/or its Legal Counsel at 222-2565.~~

~~———— The firms who have been reviewed by the Board are:~~

Lois Marshall
Administrative Assistant

Dated: _____

**CERTIFICATE OF AUTHORIZATION
PURSUANT TO R.I.G.L. TITLE 5, CHAPTER 8, PARAGRAPH 24**

~~———— The Rhode Island Board of Registration for Professional Engineers hereby finds as a matter of fact and law, consistent with the duties and obligations of the Board under Rhode Island General Laws, Title 5, Chapter 8, the following criteria and standards must be met prior to the issuance of any certificate of authorization to any "firm". In regards to these standards and qualifications, a firm is defined as a sole proprietorship, a corporation, and/or a partnership.~~

~~———— The standards and criteria for issuance of a certificate of authorization are as follows:~~

~~———— (1) No certificate of authorization shall be issued without a written application being filed setting forth in sufficient detail any and all information requested on that application. In addition, no certificate of authorization may be issued unless the application bears the signature of a person in legal authority to act on behalf of the "firm". The Board shall establish and distribute such application(s) as the Board determines is appropriate.~~

~~———— (2) That at the time that the application is filed, the names of one or more Professional Engineers with valid current registrations in the State of Rhode Island must be affixed. In addition, each of the engineers so identified must have fully and properly completed the affidavit prepared by the Board and indicating that they are assuming and accepting the position of Professional Engineer "in responsible charge", of any and all engineering work performed or offered to be performed by that firm. A true copy of that affidavit must be filed with each application for a certificate of authorization.~~

~~———— (3) That no certificate of authorization shall be granted to any "firm" where the Registered Professional Engineer designated as being in responsible charge is not clearly identified as an "employee" of the firm in accordance with the standards set forth by the Internal Revenue Service for the purpose of this requirement, the Board shall utilize I.R.S. form SS 8. The Board shall not approve any application for a certificate of authorization where the Professional Engineer in "responsible charge" is a subcontractor or independent contractor hired by the applicant.~~

~~———— (4) Once issued, a certificate of authorization shall remain valid for the period specified unless otherwise suspended or revoked for cause provided, however, that upon notice to the Board from the Registered Professional Engineer designated as being in responsible charge that he or she is no longer serving in that capacity, the Board will immediately suspend the certificate of authorization for a period of thirty (30) days pending submission of the name and new affidavit of a Professional Engineer registered in the State of Rhode Island who has agreed to serve in "responsible charge" of the engineering work of that "firm". If, at the end of the thirty (30) days, no such information and affidavit are furnished to the Board in proper form, the certificate of authorization shall be immediately revoked by the Board without further hearing and/or notice.~~

~~———— (5) In order for a Registered Professional Engineer to be designated as being in "responsible charge" of the engineering services of a "firm" and, in order for a certificate of authorization to be issued to a "firm", the person and or persons designated in "responsible charge" must solely be in direct control and personal supervision of ALL ENGINEERING WORK PERFORMED BY THE "FIRM". For the purposes of this requirement, no person who is not an employee of the "firm" may be considered to be in responsible charge.~~

~~———— (6) The Board will review each application in order to insure that the Professional Engineer "in responsible charge" is in direct control and personal supervision of all engineering work performed by the firm. The engineer in responsible charge shall work not less than twenty (20) hours per week for the firm provided however that the Board may waive such requirement upon written application to the Board for good cause shown and further provided that the firm requesting such waiver be providing services and open to the public on a part time basis.~~

~~II-1~~

RULE
OFFERING TO PRACTICE ENGINEERING

~~———— In accordance with the provisions of Title 5, Chapter 8, paragraph 1, of the Rhode Island General Laws, it shall be "unlawful for any person to practice, or to offer to practice, engineering in this State, 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 an engineer unless that person has been duly registered or exempted under the provisions" of Title 5, Chapter 8, Rhode Island General Laws. (R.I.G.L. 5-8-1)~~

~~———— In addition, pursuant to the provisions of Title 5, Chapter 8, paragraph 24, "the practice or offer to practice engineering" by a corporation, partnership or sole proprietorship (here and after referred to as "firm"), through individuals is permitted provided that said individuals are:~~

- ~~———— (a) in direct control of such practice,~~
- ~~———— (b) exercise personal supervision of all personnel who act in behalf _____ of the firm and professional and technical matters, and~~
- ~~———— (c) are registered under the provisions of this chapter, and~~
- ~~———— (d) that said firm has been issued a Certificate of Authorization by _____ the Board of Registration. (R.I.G.L. 5-8-24)~~

~~———— A firm "practice of engineering" shall be defined as "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 such as consultation, investigation, evaluation surveys, planning and design of engineering systems and the supervision of construction for the purpose of assuring compliance with specification; and embracing those services or work in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work, or projects wherein the public welfare or the safeguarding of life, health, or properties involved or concerned." (R.I.G.L. 5-8-2(d))~~

~~———— "A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practice any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, cards or in any other way represents him or herself to be an engineer, or through the use of some other title implies that he or she is an engineer or that he or she is registered under this chapter; or who holds him or herself out to as able to perform, or who does perform any engineering service or work or any other service designated by the practitioner or recognized as engineering". (R.I.G.L. 5-8-2(d))~~

~~———— Any individual and/or firm who submits a response to a request for proposals (RFP) or any other bidding method which requires the performance of any engineering work or services shall be construed to be offering to practice engineering in this State.~~

II-2

DEFINITION OF THE TERM "RESPONSIBLE CHARGE"

~~———— The term in responsible charge as applied to the Professional Engineer shall mean a registrant of the Board who exerts direct control and personal supervision over all activities associated with and defined as engineering. An engineer in responsible charge must also exert and have authority to supervise all such regulated activities by the firm with whom he or she is employed or associated with.~~

~~———— A Professional Engineer in responsible charge shall be required to stamp any and all drawings, reports, documents, specifications, plats or other submissions which are required to be stamped by that firm. The engineer in responsible charge shall also be held professionally accountable for the accuracy and correctness of any such documents submitted as well as for the quality and professionalism of the work performed.~~

~~———— A Professional Engineer designated as being in responsible charge shall have the authority to approved or disapprove on behalf of the firm any and all activities associated with the regulated profession and such decisions and/or determinations by that individual may not be overturned or altered by any other person or persons associated with that firm except with the approval of the engineer in responsible charge. No registered person or persons may be designated as being in responsible charge of engineering work by any firm, corporation, partnership or sole proprietorship unless and until such time as such designation is done in writing signed by the person in responsible charge.~~

~~———— Upon the termination of any designation as in responsible charge, the registrant of the respective Board must notify the Rhode Island Board of Registration for Professional Engineers within ten (10) days in writing of his termination from the position of being in responsible charge. Until such time as said notice is received, the designated individual shall remain in responsible charge and shall be held accountable for the work performed by that firm, partnership, or sole proprietorship.~~

~~———— (1) It shall be the policy and practice of the Rhode Island Board of Registration for Professional Engineers to publish in a newspaper of general circulation any and all disciplinary actions taken by the Board in order to ensure that the public is fully informed as to the identity of the registrant and nature of the disciplinary action taken by the Board. In addition, the Board shall cause the individuals designated in paragraph three (3) of this regulation to be notified in writing of any disciplinary action and furnish to those individuals copies of any notice of discipline taken by the Board.~~

~~———— (2) All public notifications by advertisement suspensions and/or revocations of licenses for denial of renewals shall be published in the Providence Journal for a period of once a week for three (3) weeks. These advertisements shall be published in the Sunday Business Section of the Providence Journal and shall be not less than two (2) inches by four (4) inches in size. In addition, the advertisement shall state the period of time that the individual is being disciplined for, the nature of the discipline and a brief recitation of the reason for the discipline being imposed. The Board may, for good cause shown, modify this rule on a case by case basis in order to publish such notice in a local newspaper.~~

~~———— (3) In addition to publishing notice, the Secretary of the Board shall cause an actual copy of the notice of revocation, suspension, or non-renewal to be sent to the City or Town Clerk of each municipality located in the State of Rhode Island, to the Rhode Island Department of Transportation, to the Rhode Island Department of Environmental Management (I.S.D.S Section and Wetlands Section), Coastal Resource Management Council, the State Building Official, the Massachusetts State Board for Professional Engineers, the Connecticut State Board for Professional Engineers, RI Department of Administration and to N.C.E.E.S. In regard to N.C.E.E.S., the Board shall also complete a copy of the Disciplinary Action form prescribed by N.C.E.E.S. and transmit it immediately to that Agency.~~

~~———— (4) Cost of Publication and Notice All costs associated with the publication and notice set forth herein shall be born by the individual being disciplined. In the event that a persons license is suspended, revoked, or not renewed, no further action may be taken on any application for licensure by that individual until such time as all costs are paid.~~

~~———— (5) In the event that any individual or firm shall have his license revoked or not renewed for cause, said person shall not be permitted to reapply for registration for a period of not less than five (5) years. Upon re application, it shall be the burden of the applicant to demonstrate by clear and convincing evidence that sufficient grounds exist to support the applicant's request for registration. The Board may modify this rule on a case by case basis when a license has been "not renewed" due to a license suspension of less than five (5) years duration.~~

IV-1

Rhode Island Board of Registration for Professional Engineers

POLICY : REVIEW OF PROFESSIONAL ENGINEER AND FUNDAMENTALS OF ENGINEERING EXAMINATIONS

~~It is the policy of the Rhode Island Board of Registration for Professional Engineers to utilize review of examinations previously administered to applicants as a mechanism to assist the applicant to better understand his or her shortcomings and to help that applicant prepare for future examinations. It is not however the policy of this Board to permit extensive review of previous exams so that an applicant may become "test wise".~~

~~With the aforementioned policies in effect, the Board will strictly adhere to the following procedures in regards to any requests for review of Professional Engineer or Fundamentals of Engineering examinations failed by particular applicants.~~

~~(1) Any applicant wishing to review his or her Professional Engineer (P.E.) examination or Fundamentals of Engineering (F.E.) examination must make a written request for this, to the Board, within thirty (30) days of the date of mailing of the exam results (Pass/Fail) to the applicant. Such requests must be postmarked within thirty (30) days of the date appearing on the letter of notification, advising the applicant of his or her exam result. Each applicant requesting a review should include a daytime phone number where they may be reached to schedule an appointment.~~

~~(2) Upon receipt, by the Board, of a timely request for review of an examination, the Board will assign the particular request to a Board member who will then schedule a review date. Said review date shall be at the convenience of the Board member.~~

~~(3) All reviews will be conducted in the Board's offices located at 1 Capitol Hill, 3rd Floor, Providence, Rhode Island. An applicant may not receive copies of any examination materials nor may the applicant make copies of or write down examination questions or answers. The applicant may only review those questions which they did on the exam.~~

~~(4) Each review shall last not longer than one (1) hour. In the event that an applicant is late or otherwise delayed in arriving for his or her scheduled review time, the Board member, assigned the review, may at his or her discretion, extend the review period up to one (1) hour in length, but no longer.~~

~~(5) All reviews of prior exams must be completed within one hundred and twenty (120) days of the issuance of the exam results for that examination. There shall be no reviews scheduled, by the Board, of any previous examination within the sixty (60) day period immediately preceding the administering of a P.E. or F.E. examination.~~

~~(6) The Board shall limit the number of times that it reviews previous examinations for an individual applicant to a maximum of two (2), unless the National Council requests to limit the amount of reviews conducted for any particular applicant(s) to one (1) or none (0). In that case, the National Council's request shall govern the Board's policy.~~

IV-2

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

~~Subject: Board Policy on the number of times an applicant may be allowed to take the Fundamentals of Engineering (F.E.) or Professional Engineers (P.E.) Exams~~

- 1) That a qualified applicant will be allowed to take the F.E. or P.E. Exam a total of three (3) times. This would be an aggregate total regardless of where or when the exam was taken.
- 2) An applicant who has failed three (3) times, may request permission to take the exam for a fourth and final time, if:
 - a) Their score on their last attempt was a minimum of sixty (60) and
 - b) They agree to take and **complete** an appropriate review course or graduate courses in areas of their deficiency and submit written proof to the Board of having successfully completed such course or courses.
- 3) An applicant who fails the F.E. or P.E. Exam a total of four times, regardless of where or when the exam was taken, shall not be allowed to take the exam in Rhode Island, nor be granted a registration by reciprocity or comity should they pass it at a future date in a different state or jurisdiction.
- 4) An applicant who does not properly inform the Board of previous attempts to pass the exam in another state or jurisdiction, if such information comes to the Board's attention, shall be barred from taking any more exams in Rhode Island or shall have any license gained in Rhode Island revoked.
- 5) If an applicant obtains an additional engineering degree from an ABET accredited school then the Board may grant relief from these provisions for good cause shown.

V-1

APPLICATION FOR TEMPORARY PERMIT

Every applicant for a temporary permit to practice or offer to practice engineering in the State of Rhode Island shall complete the application form designated by the Board and return it to the Board with the required fee. Each such applicant shall also attach to said application a letter

~~indicating whether or not he is making application as an individual or whether he is making application on behalf of a firm.~~

~~———— In those instances where an individual is making application as an employee and/or agent of a firm, the applicant shall set forth within the body of his application and/or letter a statement as to whether or not he is employed full time by that firm or, if not employed full time, indicating the manner in which he provides services to the firm and is compensated for those services.~~

~~———— When an applicant indicates that he is applying on behalf of a firm, that firm shall be required to obtain a certificate of authorization issued by the Board. In order to obtain a certificate of authorization, the firm must submit to the Board evidence that they are a corporation in good standing with the Rhode Island Secretary of State's Office or, in the alternative, if the firm is located outside the State of Rhode Island, the firm must provide evidence that they have registered with the Rhode Island Secretary of State's Office as a foreign business corporation. The firm must also complete an application for certificate of authorization on behalf of the firm and tender the registration fee required by the Board.~~

~~———— All temporary certificates shall be issued in accordance with R.I.G.L. 5-8-21.~~

~~In all instances where the application is being made for a temporary certificate and a temporary certificate of authorization, the thirty (30) day time period will run concurrently during dates established by the Board and its approval.~~

~~———— Any firm granted a temporary certificate of authorization may modify that temporary certificate of authorization to a permanent certificate of authorization by submitting in writing on the appropriate form to the Board the name of a Professional Engineer registered in the State of Rhode Island who has agreed to be in responsible charge of all engineering work for that firm. In the event that such a request is made, the individual proposed to be in responsible charge of engineering work must complete the affidavit required by the Board and submit it to the Board prior to any such certificate being extended. No request to modify or extend shall be effective until approved by the Board.~~

~~VI-1~~

~~**PROCEDURAL RULES AND REGULATIONS RHODE ISLAND BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS**~~

~~**RULE 1 ORGANIZATION**~~

~~1.01 Chapter 5-8 of the General Laws establishes the Board of Registration of Professional Engineers (hereinafter Board) and sets forth its jurisdiction and powers. The duties of the Board are set forth in said chapter of the General Laws.~~

~~1.02 It is the function of the Board to regulate the practice of engineering within the State of Rhode Island as defined by the General Laws.~~

RULE 2-DEFINITIONS.

~~2.01 The term "Board" wherever used in these regulations shall be deemed to refer to the Board of Registration of Professional Engineers or, when the context permits, to the relevant Administration or personnel thereof.~~

~~2.02 The term "Chairman" wherever used in these regulations shall be deemed to refer to the Chairman of the Board. When used in connection with proceedings before the Board, the term "Chairman" shall also include the hearing officer conducting any hearing or prehearing for the Board.~~

RULE 3-PRACTICE BEFORE THE BOARD.

~~3.01 No person may appear in a representative capacity before the Board other than attorneys at law duly qualified and entitled to practice before the Supreme Court of the State of Rhode Island and attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the State of Rhode Island are permitted to appear in a representative capacity before administrative agencies of such other state, and such other persons as by law are expressly authorized to appear in representative capacities, and if not otherwise prohibited by our state law, but the Chairman, or hearing officer of the Board before which any matter is pending, may in circumstances he deems appropriate, permit a bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation to appear for such individual firm, association, partnership, or corporation.~~

~~3.02 All persons appearing in proceedings before the Board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Rhode Island. If any such person does not conform to such standards, the Board may decline to permit such person to appear in a representative capacity in any proceeding before the Board.~~

RULE 4-COMPLAINTS, ANSWERS & HEARINGS.

~~4.01 Hearings required by law shall be conducted in accordance with these rules and regulations. Where no hearing is required by law, the Board may nevertheless in its discretion conduct or direct informal hearings or investigations be conducted in such manner and according to such procedures as it may deem appropriate.~~

~~4.02 In any contested case, all parties shall be served with such notice as may be provided by law, but in the absence of such requirement the Board may order such notice as it deems necessary for the protection of the parties involved.~~

~~4.03 The Board shall require that all complaints filed against any person or firm registered by this Board and/or subject to its jurisdiction be filed with the Board in a "verified" format. Each "verified" complaint shall include, at a minimum, the name and address of the person or firm filing the complaint, the name and address of the person or firm against whom the complaint is filed, a statement of facts sufficient to establish that the Board has jurisdiction over the conduct alleged and a statement setting forth the facts which support the allegation(s) that the individual or firm has violated the laws, code of ethics and/or rules and regulations governing the practice of Engineering in this state. All "verified" complaints shall be sworn to by a notary public and shall be signed by a person having personal knowledge of the facts and information asserted in the complaint.~~

~~4.10 Service of Process.~~

~~4.10.01 By whom Served. The Board shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served or caused to be served by the party filing it. Service shall be accomplished by certified mail at the last address on file with the Board with return receipt being required.~~

~~4.10.02 Upon Whom Served. All papers served by either the Board or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.~~

~~4.10.03 Service Upon Parties. The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record.~~

~~4.10.04 Method of Service. Service of papers shall be made personally or by first class registered or certified mail.~~

~~4.10.05 When Service Complete. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed. Proof of service shall be required except that any party may evidence adequate attempts of service by demonstrating two (2) separate attempts at service, each such attempt being not less than two (2) weeks from any prior attempt.~~

~~4.10.06 Filing with Board. Papers required to be filed with the Board shall be deemed filed upon actual receipt by the Board at Suite 324 Charles Orms Building, 10 Orms Street,~~

~~Providence Rhode Island, or at such address as may, at the time of filing, be the location of the Board.~~

~~———— **4:20 Subpoenas.**~~

~~———— 4.20.01 Form. Every subpoena shall state the name and address of the Board and the Title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.~~

~~———— 4.20.02 Issuance to Parties. When permitted by law and upon application of counsel for any party to a contested case, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The Board may issue subpoenas in accordance with law to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought.~~

~~———— 4.20.03 Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person.~~

~~———— 4.20.04 Proof of Service. The person service the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the Board or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the Board, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.~~

~~———— 4.20.05 Quashing. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena was issued) the Board or its authorized member or officer may~~

~~(1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.~~

~~———— 4.20.06 Enforcement. Upon application and for good cause shown, the Board may seek judicial enforcement of subpoenas issued to parties and which have not been quashed.~~

~~———— 4.20.07 Geographical Scope. Such attendance of witnesses and such production of evidence may be required from any place in the State of Rhode Island, at any designated place of hearing.~~

~~———— **4.30 Official Notice – Matters of Law.**~~

~~———— The Board or its hearing officer, upon request made before or during a hearing, will officially notice:~~

~~———— (1) ——— Federal Law. The Constitution; Congressional Acts, Resolutions, Records, Journals and Committee Reports; Decisions of Federal Courts and Administrative Agencies; Executive Orders and Proclamations; and all rules, orders and notices published in the Federal Register.~~

~~———— (2) ——— State Law. The Constitution of the State of Rhode Island, acts of the Legislature, Resolutions, Records, Journals and Committee Reports; decisions of administrative agencies of the State of Rhode Island, Executive orders and proclamations by the Governor; and all rules orders and notices filed with the Code Revisor.~~

~~———— (3) ——— Governmental Organization. Organization, territorial limitations, officers, departments and general administration of the Government of the State of Rhode Island, the United States, the several states and foreign nations.~~

~~———— (4) ——— Board of Organization. The Board's organization, administration, officers, personnel, official publications, and practitioners before its bar.~~

~~———— **4.06 Official Notice – Material Facts.**~~

~~———— In the absence of controverting evidence, the Board and its hearing officers, upon request made before or during a hearing, may officially notice:~~

~~———— (1) ——— Board Proceedings. The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the Board;~~

~~———— (2) ——— Business Customs. General customs and practices followed in the transaction of business;~~

~~———— (3) ——— Notorious Facts. Facts so generally and widely known to all well informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any Federal or state officer, department, or agency;~~

~~———— (4) ——— Technical Knowledge. Matters within the technical knowledge of the Board as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;~~

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~~———— (5) ——— Request or Suggestion. Any party may request, or the hearing officer or the Board may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any pre hearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;~~

~~———— (6) ——— Statement. Where an initial or final decision of the Board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer of~~

~~the Board may consult any source of pertinent information, whether or not furnished as it may be by and party and whether or not admissible under the rules of evidence;~~

~~(7) Controversion. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or non-existence of the material fact assumed or denied in the decision;~~

~~(8) Evaluation of Evidence. Nothing herein shall be construed to preclude the Board or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.~~

~~4.07 Presumptions.~~

~~Upon of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the Department, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:~~

~~(1) Continuity. That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;~~

~~(2) Identity. That persona and objects of the same name and description are identical;~~

~~(3) Delivery. Except in a proceeding where the liability of the carrier for non delivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company or authorized common carrier of property with of postage trolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;~~

~~(4) Ordinary Course. That a fact exists or does not exist, upon proof of the existence or non-existence of another fact which in the ordinary and usual course of affairs, usually and regularly co-exists with the fact presumed;~~

~~_____ (5) Acceptance of Benefit. That a person for whom an act is done or to whom a transfer is made has, does or will accept the same where it is clearly in his own self interest so to do;~~

~~_____ (6) Interference with Remedy. That evidence, with respect to a material fact which in bad faith is destroyed, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.~~

~~_____ **4.08 Stipulations and Admissions of Record.**~~

~~_____ The existence or non existence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:~~

~~_____ (1) Upon Whom Binding. Such a stipulation or admission is binding upon the parties by whom it is made, there privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or non existence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a pre hearing conference, oral hearing, oral argument or by writing filed and served upon all parties within five days after by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;~~

~~_____ (2) Withdrawal. Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer or the Department that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.~~

~~_____ **4.09 Prehearing Conference Rule.**~~

~~_____ 4.09.01 In any proceeding the Board or its designee, upon its or his own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:~~

~~_____ (1) The simplification of the issues;~~

~~_____ (2) The necessity of amendments to the pleadings;~~

~~_____ (3) The possibility of obtaining stipulations, admissions of facts
_____ and of documents;~~

~~_____ (4) The limitation of the number of expert witnesses;~~

~~_____ (5) Such other matters as may aid in the disposition of the
_____ proceeding.~~

~~_____ 4.09.02 The Board or its designated hearing officer shall make an order or statement
which recites the action taken at the conference, the amendments allowed to the pleadings and the
agreements made by the parties or their qualified representatives as to any of the matters
considered, including the settlement or simplification of issues, and which limits the issues for
hearing to those not disposed of by admissions or agreements; and such order or statement shall
control the subsequent course of the proceeding unless modified for good cause by subsequent
order.~~

~~_____ **4.10 Submission of Documentary Evidence in Advance.**~~

~~_____ Where practicable the Board or its designated hearing officer may require:~~

~~_____ (1) That all documentary evidence which is to be offered during the taking of
evidence be submitted to the hearing examiner and to the other parties to the proceeding
sufficiently in advance of such taking of evidence to permit study and preparation of cross-
examination and rebuttal evidence;~~

~~_____ (2) That documentary evidence not submitted in advance, as may be required by
subdivision (1), be not received in evidence in the absence of a clear showing that the offering
party had good cause for his failure to produce the evidence sooner;~~

~~_____ (3) That the authenticity of all documents submitted in advance in a proceeding
in which such submission is required, be deemed admitted unless written objection thereto is filed
prior to the hearings, except that a party will be permitted to challenge such authenticity at a later
time upon a clear showing of good cause for failure to have filed such written objection.~~

~~_____ **4.11 Excerpts from Documentary Evidence.**~~

~~_____ When portions only of a document are to be relied upon, the offering party shall prepare
the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together
with a statement indicating the purpose for which such materials will be offered. to the hearing
examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received
in the record. However, the whole of the original document shall be made available for
examination and for use by all parties to the proceeding.~~

~~_____ **4.12 Continuances.**~~

~~Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the Board or its designated hearing officer of said desire, stating in detail the reasons why such continuance is necessary. The Board or its designated hearing officer, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For good cause shown, the Board or its designated hearing officer may grant such a continuance and may at any time order a continuance upon its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may in his discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.~~

~~4.13 Rules of Evidence.~~

~~4.13.01 Subject to other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonable obtainable having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the State of Rhode Island.~~

~~4.13.02 When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.~~

~~4.14 Stenographic Report of Evidence.~~

~~An electronic record shall be made of every hearing or contested case before the Board. A copy of the original tape shall be made available to any party to the proceeding upon written request to the Board. A typewritten transcript shall be made of the whole or part of the record upon: (1) a written request filed with the Board by any party to the hearing or case, and (2) a deposit to the Board of an amount equal to the cost thereof, as estimated by the Board at the time of making such request. As soon as practicable, the Board shall ascertain the cost of the transcript and refund any excess deposit over the actual cost thereof, and it shall require the amount of any deficit from the party or parties requesting the report. No transcript shall be made unless the amounts required have been deposited as herein provided. Any party may request that~~

~~a stenographic record be kept by tendering to the Board and amount equal to the estimated cost thereof not less than seven (7) days prior to any scheduled hearing date.~~

~~RULE 5 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL~~

~~5.01 Any interested person may petition the Board requesting the promulgation, amendment, or repeal of any rule.~~

~~5.02 Where the petition requests the promulgation of rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form if any. The petition must include all reasons for the requested amendment or repeal of the rule.~~

~~5.03 All petitions shall be considered by the Board and the Board may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.~~

~~5.04 Declaratory Rulings. As prescribed by Section 42-35-8, G. L. 1956, as amended, any interested person may petition the Board for a declaratory ruling. The Board shall consider the petition and within a reasonable time the Department shall:~~

~~(1) Issue a non-binding declaratory ruling; or~~

~~(2) Notify the person that no declaratory ruling is to be issued; or~~

~~(3) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.~~

~~If a hearing as provided in subsection (3) is conducted, the Board shall within a reasonable time:~~

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~~(1) Issue a binding declaratory rule; or~~

~~(2) Issue a non-binding declaratory ruling; or,~~

~~(3) Notify the person that no declaratory ruling is to be issued.~~

~~5.05 Forms. Any interested person petitioning the Board for a declaratory ruling pursuant to Section 42-35-8 shall generally adhere to the following form for such purpose.~~

~~At the top of the page shall appear the wording "Before the RI Board of Registration of Professional Engineers." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for a Declaratory Ruling." Opposite the foregoing caption shall appear the word "Petition."~~

~~———— The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.~~

~~———— The original and four legible copies shall be filed with the Board. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.~~

~~———— Any interested person petitioning the Board requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.~~

~~———— At the top of the page shall appear the wording "Before the R. I. Board of Registration of Professional Engineers." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of Rule (or Rules)." Opposite the foregoing caption shall appear the word "Petition."~~

~~———— The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by department rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for action sought.~~

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~~———— Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and four legible copies of the petitions shall be filed with the Department. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2 " x 13" in size.~~

RULE 6 PUBLIC INFORMATION.

~~———— Members of the general public who may desire to secure information, make submissions or requests in accordance with the applicable statutes of the Board, register complaints, or to conduct business in any manner whatsoever with the Board may do so in writing delivered to the Chairman having jurisdiction, or may appear in person at the offices of the Board during its regular business hours.~~

RULE 7 COMPLAINTS.

~~———— All complaints filed with the Board must be subscribed and verified in the manner prescribed for verification of complaints in the Superior Courts of this state. All complaints must clearly set forth the provisions of law alleged to have been violated as well as sufficient facts and information upon which a reasonable person can support such allegations. Upon receipt of such complaint, the Board shall immediately forward a copy of such complaint to the registered engineer or firm which is the subject matter of said complaint. If, upon review, the Board determines that any complaint fails to comply with these requirements or, if the subject matter of the complaint is not registered or certified by the Board, the Board shall immediately notify the complainant in writing of these facts. The complainant shall be afforded sufficient opportunity to correct any defect in the complaint.~~

RULE 8 ANSWERS

~~———— Any registrant or corporate body certified by this Board shall, within twenty (20) days of receipt of such a complaint, file or cause to be filed a written answer to such complaint with the Board. The registrant or corporate body shall also file or cause to be filed a copy of such answer with the complaining party at the address set forth in the complaint.~~

RULE 9 COSTS OF RECORD

~~———— The Board may, upon its own motion or for good cause shown, require that a stenographic record be kept of a hearing. The cost of this record shall be assessed against the complaining party unless, after consideration of the evidence, the Board determines that the registrant should bear the cost. The Board may, upon written request and for good cause, waive the costs of the record when a party is indigent or when the party shall be unable to pay.~~

RULE 10 REQUESTS FOR CONTINUANCES

~~———— For good cause shown, the Board may continue and/or reschedule hearing or other proceedings before the Board upon the request of any party to the proceedings. Such a request, if made, must be in writing in the form set forth herein and must be submitted to all parties of interest to the proceedings.~~

~~———— A request for a continuance and/or rescheduling must set forth the name of the matter being addressed, the reason for the requested change in scheduling, alternative dates when the proceeding may be reconvened and a certification that all parties of interest to the matter have been notified. In the event that any party to the proceeding objects to a continuance or rescheduling, the party requesting the continuance or rescheduling should note that in the request filed with the Board.~~

~~———— The Board will act on all such requests as quickly as possible. Where time does not permit the full Board to meet and consider the request, the Chairman of the Board may grant the~~

~~request for a continuance for a period of not more than thirty (30) days. All requests for rescheduling must be approved by a majority of the Board.~~

~~VI-2~~

~~RULES AND REGULATIONS OF STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS~~

~~BY LAWS~~

~~**SUMMARY:** This chapter describes the operation of the Board, the duties of the various officers and committees of the Board and the procedures for the conduct of the Board meetings.~~

~~SECTION 1—GENERAL~~

~~A) — NAME:~~

~~The name of this Board shall be State Board of Registration for Professional Engineers. For the purpose of brevity, this organization shall be subsequently referred to as the "Board".~~

~~B) — OFFICES:~~

The offices of the Board shall be at 1511 Pontiac Avenue, Cranston, RI 02920.

C) — SEAL:

The seal of the Board shall be as follows: an embossed circular seal two and one fourth inches in diameter consisting of two concentric circles, the outer circle to be two and one eighth inches in diameter, the inner one to be one and three eighths in diameter and containing the great seal of the State of Rhode Island, and the words "State of Rhode Island, and the words "State Board of Registration for Professional Engineers" below:

D) — FISCAL YEAR:

The fiscal year of the Board shall end on June 30 of each year.

E) — MEETINGS:

Not less than six stated regular meetings shall be held each year as follows: On the third Wednesday of each month in the offices of the Board, unless otherwise specified by notice. Special meetings may be called at any time by order of the Chairman or by a majority of board members. Due notice of special meeting shall be given to each member.

F) — OFFICERS AND COMMITTEES:

The Board shall elect or appoint annually at its stated meeting on the third Thursday of each January the following officers to serve for one year from date of such election or appointment, a Chairman, Vice Chairman, and a Secretary, all of whom shall be members of the Board. A quorum shall consist of three (3) members.

At the same stated meeting the Board shall elect or appoint committees as listed below to serve for one year or until his or her successor is elected; said secretary may or may not be a member of the Board.

- _____ (1) — Executive
- _____ (2) — Finance
- _____ (3) — Rules and Regulations
- _____ (4) — Examinations
- _____ (5) — Information
- _____ (6) — Complaint

SECTION 2 — DUTIES

A) — THE CHAIRMAN:

~~The Chairman shall, when present, preside at meetings and shall appoint all committees. The Chairman shall otherwise perform all duties pertaining to the office of Chairman and shall sign all certificates, vouchers and other official documents.~~

~~B) — THE VICE-CHAIRMAN~~

~~The Vice Chairman shall, in the absence or incapacity, real or imagined, of the Chairman, exercise the duties and shall possess all the powers of the Chairman.~~

~~C) — THE SECRETARY~~

~~The Secretary shall: Conduct and care for all correspondence in the name of the Board and shall record and file all applications, certificates of registration, examinations, registrations and revocations; be in possession of the official seal and affix same to all official documents upon order of the Chairman and Board; sign all certificates; keep a record of all meetings, in the form approved by the Board; maintain a proper account of all the business of the Board; receive and account for all moneys and transfer same to the State Treasurer monthly; present to the Board annually at the first meeting after the fiscal year closure a report of the transactions of the Board of the preceding year and a complete statement of the receipts and expenditures of the Board. Pending approval of the report by the Board, they shall be transmitted to the commissioner of professional and financial regulation. The Secretary shall prepare a roster showing the names and places of business of all registered professional engineers during the fiscal calendar quarter of each even numbered year. A supplementary roster of newly registered professional engineers shall be prepared by the Secretary during the first calendar quarter of each odd numbered year. Copies of each roster shall be mailed to each engineer of known address listed there in and furnished to public agencies upon request without charge. Copies will be furnished to others on an as available basis for a fee of ten (\$10.00) dollars or such other fee as the Board may establish. The Secretary shall keep all records of the Board in a manner reasonably safe from all fire hazard.~~

~~D) — VACANCIES:~~

~~If for any reason vacancies shall occur in the office of Chairman, Vice Chairman and/or Secretary, the Offices or Office shall be filled by an election of the Board Members either at a regular stated meeting or a special meeting called for that purpose. Any Officers so elected shall receive not less than three (3) affirmative votes.~~

~~E) — EXECUTIVE COMMITTEE:~~

~~The Executive Committee shall consist of three (3) members, of which the Chairman of the Board shall be Chairman. Its duties shall be to transact all business during the interval between meetings and to make a report thereon to the Board at its next meeting.~~

~~F) — FINANCE COMMITTEE:~~

~~The Finance Committee shall consist of two (2) members, and shall review all bills, accounts, income and expense, including the financial records of the Secretary, and shall report to the Board at each regular meeting.~~

~~G) — RULES AND REGULATIONS COMMITTEE:~~

~~The Rules and Regulations Committee shall consist of two (2) members, and shall from time to time consider and recommend to the Board such modifications of the by laws and rules and regulations governing examinations, registrations and procedure as will give the best operating results.~~

~~**H) — EXAMINATIONS COMMITTEE:**~~

~~The committee on examinations shall consist of all members of the Board. Their duties shall be to coordinate with the National Council of Examiners for Engineering and Surveying on the nature and scope of the examinations to be held by the Board and verify examination scores.~~

~~**I) — INFORMATION COMMITTEE:**~~

~~The Committee on Information shall consist of three (3) members, and its duties shall be to recommend to the Board data for publication and circulation setting forth the policy, purpose and principles of the Board.~~

~~**J) — COMPLAINT COMMITTEE:**~~

~~The Committee shall consist of one (1) member and he shall, with the Secretary, screen all complaints and decide on the procedure for their treatment. He shall, further, act as complaint officer for such complaints as progress to that stage. The Board may appoint its legal counsel to fulfill the purpose of this committee.~~

~~**SECTION 3 — PROCEDURE**~~

~~**A) — QUORUM:**~~

~~Three (3) members of the Board shall constitute a quorum for the transaction of business.~~

~~**B) — ORDER OF BUSINESS SHALL BE AS FOLLOWS UNLESS CHANGED BY A MAJORITY VOTE OF THE BOARD.**~~

- ~~1. — READING OF MINUTES~~
- ~~2. — REPORT OF EXECUTIVE COMMITTEE~~
- ~~3. — REPORT OF FINANCE COMMITTEE~~
- ~~4. — REPORT OF RULES AND REGULATIONS COMMITTEE~~
- ~~5. — REPORT OF COMMITTEE ON EXAMINATIONS~~
- ~~6. — REPORT OF INFORMATION COMMITTEE~~
- ~~7. — REPORT OF COMPLAINT COMMITTEE~~

- ~~8. REPORT OF SPECIAL COMMITTEES~~
- ~~9. READING COMMUNICATIONS~~
- ~~10. READING AND CONSIDERING APPLICATIONS~~
- ~~11. UNFINISHED BUSINESS~~
- ~~12. NEW BUSINESS~~
- ~~13. EXAMINATIONS~~
- ~~14. ADJOURNMENT~~

C) PROCEDURE

~~Roberts' Rules of Order shall govern the procedures of the Board except as otherwise provided by the Statutes or Rules and Regulations.~~

D) NOTICE

~~A notice of each meeting shall be mailed to each member of the Board, by the Secretary, and shall be deemed full and proper notice thereof.~~

E) AMENDMENTS

~~Proposed amendments to the Rules and Regulations must be presented in writing to each member of the Board at least one (1) week in advance of a meeting and shall be adopted in accordance with the appropriate provisions of state statutes.~~

BASIS STATEMENT:

~~This chapter details and expands on the statutes governing the operation of the Board.~~

SECTION 3: REGISTRATION OF PROFESSIONAL ENGINEERS

SUMMARY: ~~This chapter contains provisions relating to registration requirement and exemptions for Engineers and Engineers In Training, fees and examinations. It also contains definitions necessary for interpretation of this chapter.~~

3.01 Definitions

A) ~~The term "Act" shall refer to an relating to businesses and professions, land surveyors, and engineers, "Title 5, Chapter 8, of the General Laws of the State of Rhode Island revised statute of 1990, as amended."~~

B) ~~The term "Board" shall mean the State Board of Registration for Professional Engineers as defined in Title 5, Chapter 8, Section 2(c), revised statutes of 1990, as amended.~~

~~C) — The term "Professional Engineer" shall mean a person who, by reasons of the person's knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience is qualified to engage in engineering practice as defined in Title 5, Chapter 8, Section 2(b), revised statutes of 1990, as amended.~~

~~D) — The practice of Professional Engineering means any service or creative work, the adequate performance of which required 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 surveys, planning and design of engineering systems, and the supervision of construction for the purpose of assuring compliance with specifications; and embracing those services or work in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work, or projects wherein the public welfare or the safeguarding of life, health, or property is involved or concerned.~~

~~E) — A "Code of Ethics" designed for the protection of the public shall be prepared and published by the Board. It will be published in every edition of the roster and sent to all applicants.~~

3.02 – REGISTRATION

~~A) — Any person desiring to practice Professional Engineering in the State of Rhode Island shall apply to the Board for a certificate of Registration and shall submit evidence of his or her qualifications to the Board on forms furnished by the Board, and, upon the approval of the Board, will be issued a certificate as a Professional Engineer.~~

~~B) — Professional Engineers and any other person or entity registered under this act are requested to keep their certificates of registration issued by the Board posted conspicuously in their principal place of business, where the public can examine said certificate.~~

~~C) — Professional Engineers under this act are expected to practice within their area of competence. This requires that all applicants declare their appropriate engineering discipline of competence and practice. These disciplines are as follows:~~

~~_____ Civil~~

~~_____ Structural~~

~~_____ Electrical~~

~~_____ Mechanical~~

- ~~_____ Chemical~~
- ~~_____ Environmental~~
- ~~_____ Fire Protection~~

~~The Board added the Fire Protection discipline as a recognized discipline for registration in Rhode Island. The Board does not offer the NCEES Group II examination in Rhode Island, but those who want to take the Fire Protection examination be required to take it in a neighboring state or a state that offers it, and all Mechanical engineers, regardless of when registered, and those engineers registered prior to discipline specific, who have expertise in Fire Protection, shall be allowed to work in the area of fire protection design despite the addition of the Fire Protection discipline.~~

~~The Board will issue Certificates of Registration to those applicants who demonstrate qualifications acceptable to the Board, for specific discipline.~~

~~D) — In administering the act and formulating its procedures, the Board recognizes three (3) fundamental obligations:~~

- ~~1. — To respect the right to means of a livelihood of any individual who has conscientiously and properly prepared to practice Professional Engineering.~~
- ~~2. — To protect the public, as far as possible, within the limits of the act from such dangers, affecting life, health and property, as may arise from the attempt of incompetent or unethical persons to practice this profession.~~
- ~~3. — All Engineers and Engineers In Training shall conform to the Code of Ethics adopted by this Board in their professional activities.~~

~~3.03 — APPLICATION FOR REGISTRATION AS A PROFESSIONAL ENGINEER AND FOR CERTIFICATION AS AN ENGINEER IN TRAINING.~~

~~A) — Applications for Registrations as a Professional Engineer and certification as an Engineer In Training shall be made on forms furnished by the Board.~~

~~B) — Application for certification as an Engineer In Training shall, in approval, admit the applicant to examination, the passage of which shall entitle the applicant to a certificate as an Engineer In Training.~~

~~3.04 — CLASSES OF APPLICANTS~~

~~Each applicant shall designate the classification in the following schedule of minimum requirements, under which he or she makes application.~~

~~A) — PROFESSIONAL ENGINEER~~

~~1. By endorsement without further examination. Acceptable evidence of registration in good standing by comparable written examination in another State, territory or possession of the United States, the District of Columbia, or of any foreign country and/or a certificate of qualification from the National Council of Engineering examiners showing the applicant to have qualifications meeting the requirements of the statutes, as defined in Title 5, Chapter 8, Section 11(1)(a), of the General Laws of Rhode Island, as amended. All such applicants shall be required to verify such information furnished to the Board in a form satisfactory and approved by the Board.~~

~~2. By graduation, experience and examination.~~

~~(a) Graduates of engineering schools in an ABET approved four year engineering curriculum, with four years of active practice indicating experience of a grade and character satisfactory to the Board and passing an eight hour written examination in the fundamentals of engineering and passing an eight hour written examination in the principles and practice of engineering. As defined in Title 5, Chapter 8, Section 11(1)(b), of the General Laws of Rhode Island, as amended.~~

~~NOT ON STATUTE:~~

~~(b) Graduates of an ABET approved four year engineering technology curriculum, with six years of active practice indicating experience of a grade and character satisfactory to the Board and passing an eight hour written examination in the fundamentals of engineering and passing an eight hour written examination in the principles and practice of engineering.~~

~~(c) Graduates of engineering schools in an ABET approved four year curriculum, with twelve (12) years or more experience of a grade and character, satisfactory to the Board, and passing an eight hour written examination in the Principles and Practice of Engineering, as defined in Title 5, Chapter 8, Section 11(1)(b), of the General Laws of Rhode Island, as amended. In order to satisfy the requirements of this provision, the applicant must demonstrate that for each of the twelve (12) years submitted for experience purposes that the applicant was directly employed within the engineering profession and was principally employed in the engineering profession during each of the years submitted.~~

~~VII-1~~

~~SUBMISSION OF APPLICATIONS~~

~~Registrants in this Board shall be subject to the following interpretations of registration laws in regard to this Board acting upon individual applications and renewals.~~

~~(A) Each person shall be required to submit applications or renewal applications in a timely fashion in accordance with the schedules established by the Board. Individuals who fail to submit applications for registration or renewals in accordance with the deadlines established by the Board shall be considered to have not complied with the terms and conditions of their license or license application. In the event that the Board shall make such a determination, individuals who were previously registered shall be prohibited from the practice of engineering until such time as the Board has reviewed and accepted their application or renewal of their license.~~

~~(B) Any individual who shall engage in the practice of engineering while in an unregistered status shall be determined to be in willful violation of the registration laws of the~~

~~State of Rhode Island and shall be dealt with accordingly. Any person who shall submit or stamp documents during a period when said person is not registered shall be considered to be in willful violation of the registration laws of the State of Rhode Island and shall be subject to being denied registration or denied renewal of past registrations for said actions.~~

~~————(C) Every applicant for registration or renewal said be required to ensure that they hold a current, valid license prior to practicing or offering to practice engineering within the State of Rhode Island. Any violation of this regulation shall be considered to be willful and deliberate and shall be sufficient cause for denying either granting or renewal of a license.~~

~~————(D) Every applicant for registration or a certificate of authorization, or a renewal thereof, shall be responsible for the accuracy and correctness of the information contained on the application. The Board will not alter any application nor will the Board accept any verbal changes in any application before the Board. Each applicant must review his/her application carefully and, if changes are to be made, they must be made by the applicant in writing.~~

VIII-1

RULES OF PROFESSIONAL CONDUCT A CODE OF ETHICS

SECTION 1 — PREAMBLE

~~1.1 — To comply with the purpose of the General Laws of the State of Rhode Island Title 5 Chapter 8 revised statute of 1990, as amended, which is to safeguard life, health, and property, to promote the public welfare, and to maintain a high standard of integrity and practice, the Rhode Island Board of Registration for Professional Engineers has developed the following "Rules of Professional Conduct" as a Code of Ethics.~~

~~1.2 — These rules shall be binding on every person holding a certificate of registration as a Professional Engineer and on all partnerships, sole~~

~~proprietorships, corporations or other legal entities authorized to offer or perform engineering services in this State. All registrants under the Rhode Island statute are required to be familiar with the registration statute and these rules. The "Rules of Professional Conduct" delineate specific obligations the registrant must meet. In addition, each registrant is charged with the responsibility of adhering to standards of the highest ethical and moral conduct in all aspects of the practice of professional engineering.~~

~~1.3 All registrants shall perform their services only in the areas of their competence according to current standards of technical competence.~~

~~1.4 Registrants shall recognize their responsibility to the public and shall represent themselves before the public only in an objective and truthful manner.~~

~~1.5 Registrants shall avoid conflicts of interest and faithfully serve the legitimate interests of their clients, employers, and customers within the limits defined by these rules. Registrants professional reputation shall be built on the merit of their services and they shall not compete unfairly with others.~~

~~1.6 The "Rules of Professional Conduct" as promulgated herein are enforced under the powers granted to the Board under Rhode Island General Laws, Title 5, Chapter 8, as amended.~~

~~1.7 In these rules, the word "registrant" shall mean any person, corporation, partnership, sole proprietorship or other legal entity holding a license or certificate issued by the Rhode Island Board of Registration for Professional Engineers.~~

SECTION 2 - OBLIGATIONS TO SOCIETY

~~2.1 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.~~

~~2.2 Registrants shall approve and seal only those design documents that conform to accepted engineering standards and safeguard the life, health, property, and welfare of the public.~~

~~2.3 The application of a professional engineer seal shall indicate that the engineer has exercised direct control and personal supervision over the work to which the seal is affixed. Therefore, no registrant shall affix a name, seal or certification to a plat, drawing, design, specification or other work constituting the practice of engineering which has been prepared by an unlicensed or uncertified person or firm unless such work was performed under the direct control and personal supervision of the engineer. If the engineer is unable to seal completed professional engineering work, such work may be sealed by another registered engineer after thorough review and verification that the~~

~~work has been accomplished to the same extent that would have been exercised if the work had been done under the direct control and personal supervision of the registrant affixing the professional seal.~~

~~2.4 A principal or authorized licensed or certified employee shall apply a seal to final and complete cover sheets of plans, drawings, plats, technical reports and specification and to each original sheet of plans, drawing or plats, prepared by the engineer or someone under his or her direct control and personal supervision.~~

~~1. All seal imprints on final documents shall bear an original signature and date.~~

~~2. Incomplete plans, documents and sketches, whether advance or preliminary copies, must be so identified and need not be sealed or signed.~~

~~3. All plans, drawings or plats prepared by the registrant shall bear the registrants name or firm name, address and project name.~~

~~4. Application of the seal and signature indicates acceptance of responsibility by the registrant sealing said documents for all work shown thereon unless clearly indicated in writing on each sheet.~~

~~5. The failure to conform to these requirements shall constitute the failure to seal a document.~~

~~2.5 Registrants shall notify their client or employer and such other authority as may be appropriate when their professional judgment is overruled under circumstances where life, health, property, or welfare of the public is endangered. Such notification shall be in writing when and where practicable.~~

~~2.6 Registrants shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony.~~

~~2.7 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.~~

~~2.8 Registrants shall issue no statements, criticisms, or arguments on technical matters which are inspired or paid for by interested parties, unless they explicitly identify the interested parties on whose behalf they are speaking, and reveal any interest they have in the matters.~~

~~2.9 Registrants shall not permit the use of their name or firm name by, nor associate in business ventures with, any person or firm which is engaging in fraudulent or dishonest business practices.~~

~~2.10 Registrants having knowledge of possible violations of any of these "Rules of Professional Conduct" must provide the Board with the information necessary for the Board to render a final determination of the propriety of the conduct of any registrant.~~

~~2.11 Registrants shall, upon request or demand, produce to the Board, or any of its agents, any plan, drawing, document, book, record or copy thereof in his possession concerning a transaction covered by these rules and shall cooperate in the investigation of a complaint filed with the Board against another registrant.~~

SECTION 3 – OBLIGATIONS TO CLIENTS OR EMPLOYER

~~3.1 Registrants shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering involved. Registrants are not to be restricted to one discipline, rather, as Professional Engineers they are to practice in their fields of competence, provided however, that in the event this Board shall issue registration and/or licenses in a specific area of practice, no person/firm and/or registrant shall practice in that area unless registered to do so by this Board.~~

~~3.2 Registrants shall not affix their signatures or seals to any drawings or documents dealing with subject matter in which they lack competence, nor to any such drawing or document not prepared under their direct control and personal supervision.~~

~~3.3 Registrants may accept assignments, as the prime design professional, to oversee and to coordinate an entire project, provided that each design segment is signed and sealed by the registrant or individual responsible for preparation of that design segment.~~

~~3.4 Professional Engineers in their capacity as the prime design professional will oversee and coordinate the work of other design professionals embracing those services or work in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work, or projects wherein the public welfare or the safeguarding of life, health, or property is involved or concerned.~~

~~3.5 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.~~

~~3.6 Registrants shall not solicit or accept financial or other valuable considerations, directly or indirectly, from contractors, their agents, or other parties in connection with work for clients or employers.~~

~~3.7 Registrants shall make full prior disclosures to their clients or employers of potential conflicts of interest or other circumstances which could influence or appear to influence their judgment or the quality of their service.~~

~~3.8 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.~~

~~3.9 Registrants shall not solicit or accept a professional contract from a government 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 private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body which they serve.~~

~~3.10 Registrants shall not participate in bribery in the course of soliciting, maintaining, or increasing work.~~

SECTION 4 - OBLIGATIONS TO OTHER REGISTRANTS

~~4.1 Registrants shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in prior assignments nor the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments.~~

~~4.2 Registrants shall not offer, give, solicit, or receive, either directly or indirectly, any commission or gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by a public authority.~~

~~4.3 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.~~

~~4.4 Registrants shall not knowingly use the design, drawings or work of another design professional without the original design professional's knowledge and consent. In the event the consent has been obtained, a thorough review of the design, drawings or work of the design professional will be assumed.~~

~~4.5 Registrants shall be in good standing in every jurisdiction where registered or where engaged in the practice of engineering.~~

~~4.6 Applicants for registration with the Rhode Island Board of Registration for Professional Engineers shall be in good standing in every jurisdiction where licensed or certified and shall not have had a license or certificate suspended, revoked or surrendered in connection with a disciplinary action. Any person or firm applying for registration in this State shall fully set forth the facts, dates and circumstances of any prior investigation and/or disciplinary action by any other jurisdiction. The failure to do so shall constitute sufficient grounds for denial of any application submitted to this Board.~~

~~STAMP/SEAL~~

~~Each Professional Engineer hereunder may upon registration obtain a stamp/seal of the design indicated below, bearing the registrants name, serial number and the legend, Registered Professional Engineer.” Final drawings, plats, and reports prepared by a registrant shall, when issued, be signed and stamped with the said stamp/seal or faecsimile thereof.~~

~~All stamps/seals shall be in the form set forth below:~~