

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

[49 PA. CODE CH. 37]

Licensure by Endorsement

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) amends Chapter 37 (relating to State Registration Board for Professional Engineers, Land Surveyors and Geologists) by amending § 37.1 (relating to definitions) and adding §§ 37.20 and 37.20a (relating to licensure by endorsement; and provisional endorsement license) to read as set forth in Annex A.

Effective Date

The amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The provisions of 63 Pa.C.S. § 3111 (relating to licensure by endorsement) require licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. Additionally, section 4(l) of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P.S. § 151(l)) authorizes the Board to adopt and promulgate administrative rules and regulations, not inconsistent with the act, as are deemed necessary and proper by the Board to carry into effect the powers conferred by the act.

The act of July 1, 2020, (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (repealed) into 63 Pa.C.S. Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41).

Background and Need for the Amendments

This final-form rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license to applicants who meet the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111. Under 63 Pa.C.S. § 3111, the Board must determine whether standards for licensure are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This final-form rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license. The Board determined that its existing fee for certification, licensure or registration (\$50) as set forth under § 37.17 (relating to schedule of fees) is a fair and sufficient fee for a licensure by endorsement application; therefore, the Board is adopting this existing fee and not proposing a separate fee for licensure by endorsement. The Board did not receive any comments in opposition to the proposed rulemaking and did not make any amendments to the proposed rulemaking.

Comments to the Proposed Rulemaking

The Board published a notice of proposed rulemaking at 51 Pa.B. 2170 (April 17, 2021), for 30 days of public comment. The Board did not receive any public comments relating to the proposed rulemaking. The Independent Regulatory Review Commission (IRRC) reviewed the proposed regulation and informed the Board that it had no objections, comments or recommendation to offer on the proposed regulation. The Board did not receive any comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of their review of the proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.15).

Fiscal Impact and Paperwork Requirements

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement will be recouped through fees paid by applicants. Applicants who apply for licensure by endorsement will be impacted by the \$50 certificate, licensure or registration application fee in § 37.17 and may incur expenses relating to completing professional development hours if they choose to demonstrate competency in this manner. Applicants who demonstrate competency through experience will have to pay the \$50 initial application fee.

Sunset Date

The Board continuously monitors the cost effectiveness of the Board regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 6, 2021, the Board submitted a copy of the proposed rulemaking, published at 51 Pa.B.

2170, to IRRC and the Chairpersons of the HPLC and SCP/PLC for review and comment.

On October 13, 2021, the Board delivered the final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on October 13, 2021, the final-form rulemaking was deemed approved by the HPLC and by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 17, 2021, and announced, because it had no comments on the proposed rulemaking and the Board did not amend the rulemaking, IRRC was deemed to have approved the final-form rulemaking under section 5(g) of the Regulatory Review Act.

Additional Information

Additional information may be obtained by contacting Jeannie Bronshtein, Administrator, Registration Board for Professional Engineers, Land Surveyors and Geologists, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-ENGINEER@PA.GOV.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) This final-form rulemaking does not include any amendments that would enlarge the scope of the proposed rulemaking published at 51 Pa.B. 2170.

(4) This final-form regulation is necessary and appropriate for administration and enforcement of 63 Pa.C.S. § 3111.

Order

The Board orders that:

(a) The regulations of the Board at 49 Pa. Code Chapter 37, are amended by amending § 37.1 and adding §§ 37.20 and 37.20a to read as set forth in Annex A.

(b) The Board shall submit this final-form rulemaking to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall submit this final-form rulemaking to IRRC, the HPLC and the SCP/PLC for approval as required by law.

(d) The Board shall certify this final-form rulemaking and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-form rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

JAMES SZALANKIEWICZ, PE, PLS,
President

(*Editor's Note:* See 51 Pa.B. 7590 (December 4, 2021) for IRRC's approval order.)

Fiscal Note: Fiscal Note 16A-4715 remains valid for the final adoption of the subject regulations.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 37. STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

GENERAL PROVISIONS

§ 37.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Hearing examiner—An individual appointed by the Board, with the approval of the Governor, to conduct hearings as may be required under the act in accordance with the act and this chapter.

Jurisdiction—A state, territory or country.

NCEES—The National Council of Examiners for Engineering and Surveying.

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QUALIFICATIONS FOR LICENSURE

§ 37.20. Licensure by endorsement.

(a) *Requirements for issuance.* To be issued a license by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement), an applicant must satisfy all of the following conditions:

(1) Have a current license, certification, registration or permit in good standing to practice professional engineering, geology or land surveying in another jurisdiction whose standards are substantially equivalent to or exceed those established under sections 4.2 through 4.4 of the act (63 P.S. §§ 151.2—151.4) and §§ 37.31—37.49.

(i) An applicant must submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license.

(ii) If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

(iii) The copy of the applicable law, regulation or other rule must include the enactment date.

(2) Demonstrate competency by one of the following:

(i) Experience in the practice of professional engineering, geology or land surveying by demonstrating, at a minimum, that the applicant has actively engaged in the practice of professional engineering, geology or land surveying in the jurisdiction that issued the license, certificate, registration or permit for at least 2 of the last 5 years immediately preceding the filing of the application with the Board.

(ii) Completion of 24 professional development hours that meet the requirements of section 4.5 of the act (63 P.S. § 151.5), regarding continuing professional competency requirements, during the 24 months immediately preceding the date of the application.

(3) Have not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certification, registration or permit to practice professional engineering, geology or land surveying under section 4(g) of the act (63 P.S. § 151(g)) and § 37.81 (relating to misconduct).

(4) Have not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.

(5) Have paid the certification, licensure or registration fee as set forth in § 37.17 (relating to schedule of fees).

(6) Have applied for licensure in accordance with this chapter in the manner and format prescribed by the Board.

(b) *Interview and additional information.* An applicant may be required to appear before the Board for a personal interview and may be requested to submit additional information, including supporting documentation relating to competency and experience. The applicant may request the interview to be conducted by video teleconference for good cause shown.

(c) *Prohibited acts.* Notwithstanding subsection (a)(3) and (4), the Board may, in its discretion, determine that an act prohibited under section 4(g) of the act or § 37.81 or disciplinary action by a jurisdiction is not an impediment to licensure under 63 Pa.C.S. § 3111.

§ 37.20a. Provisional endorsement license.

(a) *Provisional endorsement license.* The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying remaining requirements for licensure by endorsement under 63

Pa.C.S. § 3111 (relating to licensure by endorsement) and § 37.20 (relating to licensure by endorsement).

(b) *Expiration of a provisional endorsement license.*

(1) An individual holding a provisional endorsement license may practice for up to 1 year after issuance of the provisional endorsement license. The Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon a written request and a showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) *Termination of a provisional endorsement license.* A provisional endorsement license terminates as follows:

(1) The provisional endorsement license terminates when the Board denies the license.

(2) Failure to comply with the terms of a provisional endorsement license will result in termination of the provisional endorsement license.

(d) *Reapplication.* An individual may reapply for licensure by endorsement under § 37.20 after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.

(e) *Use of seal.* An individual issued a provisional endorsement license shall follow the rules governing the proper use of a registrant's seal under section 7 of the act (63 P.S. § 154) and §§ 37.57—37.59 (relating to registration number; seal; and use of seal).

[Pa.B. Doc. No. 22-12. Filed for public inspection December 30, 2021, 9:00 a.m.]