

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #5

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2011 JUN 10 PM 2:41

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: WV State Board of Registration for Professional Engineers TITLE NUMBER: 7

CITE AUTHORITY: \_\_\_\_\_

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE X

EXEMPT LEGISLATIVE RULE \_\_\_\_\_

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

\_\_\_\_\_

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_ NO \_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

\_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: Application of Engineering Seal

\_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS July 10, 2011

*Jessy Posier-Tabor* 6/10/11  
Authorized Signature



West Virginia State Board of Registration  
for Professional Engineers

304-558-3554 Phone  
304-558-6232 Facsimile  
800-324-6170 Toll Free  
[www.wvpebd.org](http://www.wvpebd.org)

**MEMORANDUM**

TO: Judy Cooper, Administrative Law  
Office of the WV Secretary of State

FROM: Lesley Rosier-Tabor  
Executive Director

DATE: June 10, 2011

RE: Interpretive Rule Filing

As noted in our recent phone conversation, our agency received no comments (written or oral) regarding filing of this Title 7, Series 3 Interpretive Rule. This letter is to serve as documentation of compliance with the requirement for the public hearing and/or comment period. No changes or amendments were necessary and therefore the enclosed Interpretive Rule reads as initially submitted on April 14, 2011.

Should you have any questions, please do not hesitate to contact our office. Thank you.

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**TITLE 7  
INTERPRETIVE RULE  
STATE BOARD OF REGISTRATION FOR  
PROFESSIONAL ENGINEERS**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**SERIES 3  
APPLICATION OF ENGINEERING SEAL**

**§ 7-3-1. General.**

- 1.1. Scope. – The purpose of this rule is to create a series for interpretive rules relating to the application of an engineer’s seal.
- 1.2. Authority. – W. Va. Code §§ 30-13-1 et seq. and 29A-3-8.
- 1.3. Filing Date. – June 10, 2011.
- 1.4. Effective Date. – July 10, 2011.

Title 7, Series 3 Interpretative Rules

**§ 7-3-2. Checking another registrant’s work.**

The second sentence of the second paragraph of W. Va. Code 30-13-16(c) sets a standard by which a registrant checks the work of an out-of-state registrant. The reviewing registrant must “completely check and have complete dominion and control of the design” which “includes possession of the sealed and signed reproducible construction drawings with complete signed and seal design calculations indicating all changes in design.”

W. Va. Code R 7-1-7.3(g) also discusses the standard for checking the work of an out-of-state registrant and requires the West Virginia registrant to have “complete dominion and control of the design, which includes possession of the sealed and signed reproducible construction drawings and sealed design calculations indicating all changed in design.”

The above provisions relate to circumstances when a West Virginia registrant is asked to place a West Virginia professional engineer’s seal on work that was done by an out-of-state registrant. This requirement or standard is consistent with the provisions set forth in earlier in W. Va. Code 30-13-16(c) and in R 7-1-7.3(a) which requires the registrant’s seal to be on engineering documents “presented to a client or any public or government agency” only when the work was done by the registrant or under the

registrant's complete direction and control. However, the provision is outdated inasmuch as there is no longer any distinction between an out-of-state and in-state registrant.

Violation of the provisions regarding the legal use of a registrant's engineering seal is a ground for disciplinary action in W.Va. Code 30-13-21(a)(10), which makes it unlawful to sign or affix the seal (or permit same) "to any specifications, reports, drawings, plans, design information, construction documents or calculations or revisions which have not been prepared or completely checked by the professional engineer or under the professional engineer's direct supervision and control;"

While there is no need for a standard that applies solely to out-of-state registrants, there is often a need for a standard of review for another's work. However, currently there are no provisions that specifically set forth a registrant's duties with regard to review of another's work when it is not an out-of-state engineer. This is a common practice and is often necessary due to death, mobility, job change or other circumstance that requires a successor engineer take over and complete the work.

The Board would like to provide some clarity to its registrants so they may avoid disciplinary action in connection with their sealing engineering work that was done by another engineer. Therefore, the Board is of the opinion that the requirements set forth for the review of work by an out-of-state registrant applies to the review of any registrant's work and will interpret the term "out-of-state registrant" to mean "another registrant" when used in the context of the standard under which a registrant checks another professional engineer's work.