

# Regulatory Analysis Form

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REVENUE DIVISION

**McGinley**

(1) Agency

Department of State, Bureau of Professional and  
Occupational Affairs, State Registration Board for  
Professional Engineers, Land Surveyors and Geologists

(2) I.D. Number (Governor's Office Use)

16A-476

IRRC Number: 2033

(3) Short Title

**Amendment of Time for Appeal**

(4) PA Code Cite

49 Pa. Code §37.102

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Charles J. Hartwell - 3-7200**  
**Counsel, State Registration Board for Professional**  
**Engineers, Land Surveyors and Geologists**

Secondary Contact: **Joyce McKeever - 3-1088**

(6) Type of Rulemaking (check one)

Proposed Rulemaking

Final Order Adopting Regulation

☒ Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification  
Attached?

☒ No

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

**The amendment corrects a conflict between the current regulation and the Pennsylvania Rules of Appellate Procedure.**

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

**Section 4 of the Engineer, Land Surveyor and Geologist Registration Law, Act of May 23, 1945, P.L. 913, as amended, 63 P.S. §151(i).**

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

**Yes. Pennsylvania Rules of Appellate Procedure direct that Petitions for Review of governmental determinations shall be filed with the Prothonotary of the Appellate Court within 30 days after entry of the Order.**

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

**The amendment corrects an apparent conflict between the regulations of the Board and the Pennsylvania Rules of Appellate Procedure.**

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

N/A.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

**The regulation will benefit persons who must practice before the Board including licensees of the Board who have been subject to discipline, and who may wish to appeal from the Board's decisions. It provides clarity as to the time period for an appeal, and eliminates confusion as to the proper time for taking an appeal.**

### Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

**No one will be adversely affected because the regulation brings the Board's rulemaking into compliance with Commonwealth law.**

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

**All persons who wish to appeal from decisions of the Board will be required to comply with the regulation as amended, as they are already so required by rules or procedure.**

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

**There was no public input into this regulation. Rather, it was drafted in response to concerns raised by Court personnel.**

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

**No costs or savings will result to the regulated community from compliance with the amended regulation.**

### Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

**There are no costs or savings to local governments.**

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

**The implementation of this amendment will not result in additional costs or savings to state government.**

### Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>	N/A	N/A	N/A	N/A	N/A	N/A
Regulated						
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>	N/A	N/A	N/A	N/A	N/A	N/A
Regulated						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

There are no costs to government or the regulated community resulting from this change.

### Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A.				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

**None. No nonregulatory act was considered because the amendment has no nonregulatory equivalent.**

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

**None, because no other options are available.**

### Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

**There are no provisions of the regulation which are more stringent than federal standards.**

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

**The regulation is similar to procedures required in other states. It will not put Pennsylvania at a competitive disadvantage with other states.**

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

**No other regulations will be affected.**

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

**No public hearings have been scheduled, and none are anticipated.**

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

**The regulation will not change existing reporting, record keeping, or other paperwork requirements.**

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

**No special provisions have been developed.**

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

**It is anticipated that the regulation will become effective upon publication in the Pennsylvania Bulletin.**

(31) Provide the schedule for continual review of the regulation.

**No such review will be conducted because the regulation merely brings the procedure before the relevant board into compliance with existing law.**



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

RECORDED  
99 APR 27 PM 12:28  
NOV 11 2009  
REVIEW COMMISSION

#2033

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to  
form and legality. Attorney GeneralCopy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated by:Copy below is approved as  
to form and legality.  
Executive or Independent  
Agencies.BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)State Registration Board for Professional  
Engineers, Land Surveyors and Geologists  
(AGENCY)*Murray E. Dooling*DOCUMENT/FISCAL NOTE NO. #16A-476

DATE OF APPROVAL

DATE OF ADOPTION: \_\_\_\_\_

*4/14/99*  
DATE OF APPROVALBY: *Louis A. Guzzi*  
Louis A. Guzzi, P.E.(Deputy General Counsel  
(~~Chief Counsel.~~  
~~Independent Agency~~  
(Strike inapplicable  
title)TITLE: President  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)[ ] Check if applicable  
Copy not approved.  
Objections attached.[ ] Check if  
applicable. No Attorney  
General approval or  
objection within 30 day  
after submission.

ORDER OF FINAL/PROPOSED OMITTED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS,  
LAND SURVEYORS AND GEOLOGISTS  
49 Pa. Code, Chapter 37  
Appeal from Board Decision

By this Order, the State Registration Board for Professional Engineers, Land Surveyors and Geologists amends 49 Pa. Code §37.102 pertaining to appeals from the Board's decision as set forth in Annex A.

Under Pennsylvania Rule of Appellate Procedure 1512, relating to time for petitioning for review of governmental determinations, such a petition "shall be filed with the Prothonotary of the Appellate Court within 30 days after the entry of the Order. Pa. R.A.P. 1512(a)(1), 42 Pa. C.S. (as amended), 1979). Section 37.102 currently allows an appeal by a party aggrieved by the Board's decision within 30 days of service of the Board's decision. This creates the appearance of conflict between the time period permitted under the Pennsylvania Rules of Appellate Procedure, and the Board.

Public notice of intention to amend the regulations under procedures in Section 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§1201-1202, has been omitted under Section 204(3) of the Commonwealth Documents Law, 45 P.S. §1204(3), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because Section 37.102 conflicts with statutory provisions which govern petitions, and the amendment, therefore, is merely ministerial. All persons affected by this regulation, however, have been or will be given actual notice of the Board's intention to amend this regulation and in advance of final rulemaking under §204(2) of the Commonwealth Documents Law, 45 P.S. §1204(2).

#### **COMPLIANCE WITH EXECUTIVE ORDER 1996-1**

The Board reviewed this regulation and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1 (relating to regulatory review and promulgation). This regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

#### **STATUTORY AUTHORITY**

Section 4 of the Engineer, Land Surveyor and Geologist Registration Law, Act of May 23, 1945, P.L. 913, as amended, 63 P.S. §151(i).

#### **FISCAL IMPACT AND PAPERWORK REQUIREMENTS**

This regulation will have no fiscal impact on the Commonwealth or its political subdivisions.

This regulation will not create new paperwork requirements for the Commonwealth, its political subdivisions or the private sector.

### **REGULATORY REVIEW**

Under Section 5(f) of the Regulatory Review Act, 71 P.S. §745.5(f), a copy of this regulation was submitted on April 27, 1999 to the Independent Regulatory Review Commission (IRRC) and the Chairmen of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. At the same time, the amendments were submitted to the Office of Attorney General for review and comment pursuant to the Commonwealth Attorneys Act, 71 P.S. §732-101 et seq.

Under Section 5(c) of the Regulatory Review Act, 71 P.S. §745.5(c), this regulation was (deemed) approved by the House Professional Licensure Committee on \_\_\_\_\_, (deemed) approved by the Senate Consumer Protection and Professional Licensure Committee on \_\_\_\_\_, and approved by IRRC on \_\_\_\_\_.

### **ADDITIONAL INFORMATION**

Individuals who desire information may submit inquiries to Shirley Klinger, Board Administrator, State Registration Board for Professional Engineers, Land Surveyors and Geologists, P. O. Box 2649, Harrisburg, PA 17105-2649. The telephone number of the Board is (717) 783-7049.

The State Registration Board for Professional Engineers, Land Surveyors and Geologists finds:

1. That public notice of intention to amend the regulation as adopted by this Order pursuant to the procedures specified in Sections 201 and 202 of the Commonwealth Documents Law has been omitted under Section 204(3) of the Commonwealth Documents Law because the Board has, for good cause, found that the procedures in Sections 201 and 202 of the Commonwealth Documents Law are, in this circumstance, unnecessary, inasmuch as this amendment relates directly to agency procedure or practice.
2. That all persons affected by the regulation as adopted by this Order have been or will be given actual notice of the Board's intention to amend the regulations in advance of final rulemaking pursuant to Section 204(2) of the Commonwealth Documents

Law.

3. That the amendment of the regulations of the Board in the manner provided in this Order is necessary and appropriate for the administration of its authorizing statute.

The State Registration Board for Professional Engineers, Land Surveyors and Geologists, acting under its authorizing statute, orders:

- A. Regulations of the State Registration Board for Professional Engineers, Land Surveyors and Geologists are hereby amended by amending Section 37.102, as set forth in Annex A attached hereto.
- B. The President of the State Registration Board for Professional Engineers, Land Surveyors and Geologists shall submit this Order and attached Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.
- C. The President of the State Registration Board for Professional Engineers, Land Surveyors and Geologists shall certify this Order and attached Annex A and deposit the same with the Legislative Reference Bureau as required by law.
- D. This Order shall be effective upon publication in the Pennsylvania Bulletin.

**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**

\* \* \*

**§ 37.102. Appeal from the Board decision.**

A party aggrieved by the Board's decision may, within 30 days [of service of the Board's decision] after the entry of the order, appeal to the Commonwealth Court in accordance with the applicable rules of appellate procedure.



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS**

(717) 783-7049

116 PINE STREET  
P. O. BOX 2649  
HARRISBURG, PA  
17105-2649

April 27, 1999

The Honorable John R. McGinley, Jr.  
Chairman, Independent Regulatory Review Commission  
Harristown 2, 14th Floor  
333 Market Street  
Harrisburg, PA 17101

RE: Final/Proposed Omitted Regulation  
State Registration Board for Professional Engineers, Land Surveyors and Geologists  
Appeal from Board Decision: 16A-476

Dear Chairman McGinley:

Enclosed is a copy of a final/proposed omitted rulemaking package of the State Registration Board for Professional Engineers, Land Surveyors and Geologists pertaining to appeals from Board decisions.

The Board will be pleased to provide whatever information your Committee may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in cursive script, reading "Louis A. Guzzi".

Louis A. Guzzi, P.E., Chairman  
State Registration Board for Professional Engineers,  
Land Surveyors and Geologists

LAG:CJH:apm  
Enclosures

cc: Hon. Kim Pizzingrilli, Secretary of the Commonwealth  
Department of State  
Deborah M. Griffiths, Regulatory Review Officer  
Department of State  
Robert J. DeSousa, Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Dorothy Childress, Commissioner  
Bureau of Professional and Occupational Affairs  
State Registration Board for Professional Engineers,  
Land Surveyors and Geologists

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

RECEIVED

I.D. NUMBER: 16A-476

99 APR 27 PM 12: 28

SUBJECT: State Registration Board for Professional Engineers, land Surveyors & Geologists

AGENCY: DEPARTMENT OF STATE

RECEIVED  
REVIEW OF COMMISSION

**TYPE OF REGULATION**

Proposed Regulation

Final Regulation

X Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

**FILING OF REGULATION**

DATE

SIGNATURE

DESIGNATION

4-27-99 *Lori A. Clark*

HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

4-27-99 *Bart Han*

4/27/99 *Janet Zubry*

SENATE COMMITTEE ON CONSUMER PROTECTION &  
PROFESSIONAL LICENSURE

4/27/99 *Stephen Friell*

4/27/99 *Kimi C. Garner*

INDEPENDENT REGULATORY REVIEW COMMISSION

4-27-99 *Mary Mummert*

ATTORNEY GENERAL

LEGISLATIVE REFERENCE BUREAU

April 21, 1999