

# Regulatory Analysis Form

(Completed by Promulgating Agency)



## SECTION I: PROFILE

(1) Agency:

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

(2) Agency Number:

**16A**

Identification Number:

**4710**

IRRC Number:

**2762**

RECEIVED  
IRRC  
2010 NOV 24 A 10 11

(3) Short Title:

**Continuing Education**

(4) PA Code Cite:

**49 Pa. Code §§ 37.1, 37.18, 37.19, and 37.111**

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: **Thomas A. Blackburn, Regulatory unit counsel, Department of State;**

**(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; tblackburn@state.pa.us**

Secondary Contact: **Cynthia K. Montgomery, Regulatory Counsel, Department of State**

**(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; cymontgome@state.pa.us**

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

**State Registration Board for Professional Engineers, Land Surveyors and Geologists**

**(717)783-7049; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)705-5540; st-engineer@state.pa.us**

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

## Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

**This rulemaking implements the mandatory continuing education requirements for licensees of the State Registration Board for Professional Engineers, Land Surveyors and Geologists, as set forth in section 4.5 of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P.S. § 151.5). Each licensee will be required to successfully complete at least 24 professional development hours of continuing education during each biennial renewal period, beginning with the October 2009 through September 2011 cycle. Those holders of multiple licenses would have to satisfy the requirement for each license, but might be able to apply courses to multiple licenses where appropriate. The rulemaking sets forth enforcement standards, including a process for seeking exemption. The rulemaking also provides heretofore missing standards for renewal of a license.**

(9) Include a schedule for review of the regulation including:

- |   |                      |
|---|----------------------|
| A. The date by which the agency must receive public comments:                               | June 2, 2009         |
| B. The date or dates on which public meetings or hearings will be held:                     | N/A                  |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | Publication as final |
| D. The expected effective date of the final-form regulation:                                | Upon publication     |
| E. The date by which compliance with the final-form regulation will be required:            | By renewal 9/30/11   |
| F. The date by which required permits, licenses or other approvals must be obtained:        | N/A                  |

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

**The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the third Wednesday of each odd-numbered month. More information can be found on the Board's website ([www.dos.state.pa.us/eng](http://www.dos.state.pa.us/eng)).**

## Regulatory Analysis Form

### SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

**The rulemaking is adopted under Section 4(l) of the Act (63 P.S. § 151.4(l)).**

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

**The rulemaking is not mandated by any federal or state law or court or federal regulation.**

**The act authorizes the Board to promulgate regulations necessary and proper to enforce the act and requires licensees to complete continuing education. However, the continuing education provisions of the act are self-executing, and the act does not specifically require the Board to promulgate regulations to implement the continuing education requirements. This rulemaking does not implement the continuing education requirement, but merely provides for enforcement.**

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

**The General Assembly recognized the compelling public interest of ensuring that licensees obtain a minimum number of hours of continuing education in enacting the continuing education requirement of the act. Licensees, the public, and the Board will benefit from the increased knowledge and skills of licensees. Additionally, the providers of continuing education will benefit from the expanded market for their services.**

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

**This rulemaking is not based upon any scientific data, studies, or references.**

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

**Each licensee will be required to complete mandatory continuing education during each biennium. There are approximately 31,700 licensed professional engineers, 2,900 licensed professional land surveyors, and 2,600 licensed professional geologists in this Commonwealth, with current licenses. The Board has identified no other group of individuals or entities that will be adversely affected by the regulation.**

## Regulatory Analysis Form

(16) 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.

**Each licensee will be required to complete mandatory continuing education during each biennium. There are approximately 31,700 licensed professional engineers, 2,900 licensed professional land surveyors, and 2,600 licensed professional geologists in this Commonwealth, with current licenses.**

### SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

**The act mandates that licensees complete continuing education beginning with the current renewal cycle, and therefore, the costs of compliance result from the statutory mandate and not from this rulemaking. There are minimal costs to the regulated community associated with compliance with the rulemaking in the form of administrative costs for records retention and audit compliance.**

(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. Explain how the dollar estimates were derived.

**There are no costs or savings to local governments associated with compliance with the rulemaking.**

(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. Explain how the dollar estimates were derived.

**The Board will audit licensees to monitor compliance with the continuing education requirements and will review and approve courses of continuing education. It is believed that the Board will not incur any additional costs in reviewing the biennial renewal applications of those licensees who have successfully completed the required amount of continuing education. It is impossible to estimate the number of licensees who might not comply with the required amount of continuing education, and therefore the Board cannot estimate any increased enforcement costs at this time.**

**There are no other costs or savings to state government associated with implementation of the rulemaking.**

(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.

## Regulatory Analysis Form

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>	N/A	N/A	N/A	N/A	N/A	N/A

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

Program	FY -3 (2007-08)	FY -2 (2008-09)	FY -1 (2009-10)	Current FY (2010-11)
Pa. State Reg. Bd. for Professional Engineers, Land Surveyors and Geologists	(projected) \$943,864	(projected) \$1,152,000	(budgeted) \$1,083,000	(budgeted) \$1,223,000

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

**The minimal marginal costs associated with compliance with the regulations, compared with their public safety and consumer protection benefits, indicate that adoption of the regulations would be prudent.**

## Regulatory Analysis Form

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

**On August 1, 2007, the Board solicited exposure draft comments from various stakeholders who had expressed an interest in the contemplated rulemaking. The Board received comments from the Pennsylvania Society of Professional Engineers; the American Council of Engineering Companies of Pennsylvania; the Pennsylvania Society of Land Surveyors; the Department of Conservation and Natural Resources; the Pennsylvania Council of Professional Geologists; the Department of Transportation; Neil Styler, PhD, PE; Edward M. Lesny, PE; Glenn J. Eby, PE; Deborah D. Foust, PG; Rebecca A. Bowman, Esquire, PE; and Ernest Madichie, PG. In response to the comments, the Board revised its exposure draft into the proposed rulemaking. The Board subsequently discussed the proposed rulemaking at public meetings of the Board, which are routinely attended by members of the regulated community and their professional associations.**

**After the rulemaking was published as proposed, the Board received various public comments. Additionally, the Board noted the proposed rulemaking in its summer, 2009, newsletter to licensees and received many more comments from licensees. The Board continued to discuss this rulemaking at its public meetings in September and November, 2009, and again at its public meetings in January and March, 2010. After passage of Act 25, the Board continued to discuss this rulemaking at its public meetings in May and July, 2010. The Board also discussed this rulemaking at its meeting November, 2010, following IRRC disapproval.**

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**No alternative regulatory schemes were considered, because no other regulatory schemes would effectuate the recent amendments to the Act.**

(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 regulations.

**The rulemaking is not more stringent and does not overlap or conflict with any federal requirements.**

## Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

**Other states also require continuing education: the Delaware Board of Professional Land Surveyors (24 hours every 2 years), the Maryland State Board for Professional Land Surveyors (24 hours every 2 years), the New Jersey State Board of Professional Engineers and Land Surveyors (24 hours every 2 years for land surveyors), the New York State Board for Engineers and Land Surveyors (36 hours every 3 years for engineers and 24 hours every 3 years for land surveyors), the Ohio Board of Registration for Professional Engineers and Surveyors (15 hours every year for engineers and land surveyors), the West Virginia State Board of Registration for Professional Engineers (15 hours every year), the West Virginia State Board of Professional Surveyors (8 hours every year), and the Delaware State Board of Geologists (24 hours every 2 years) all require continuing education of their licensees. The Council of the Delaware Association of Professional Engineers and the Maryland State Board for Professional Engineers do not require continuing education.**

**The Maryland State Board for Professional Land Surveyors approves providers, and not courses, of continuing education. The New Jersey State Board of Professional Engineers and Land Surveyors approves courses of continuing education. The New York State Board for Engineers and Land Surveyors and the Ohio Board of Registration for Professional Engineers and Surveyors, the West Virginia State Board of Registration for Professional Engineers, and the West Virginia State Board of Professional Surveyors do not approve continuing education providers or courses.**

**The rulemaking will not put Pennsylvania (24 hours every 2 years) at a competitive disadvantage with these other states.**

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

**This rulemaking complements the Commissioner's rulemaking 16-43 (Act 48 engineer CE). This rulemaking will not affect other regulations of the Board or other state agencies.**

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

**Licensees will be required to keep proof of completion of continuing education for 5 years. The Board will audit a percentage of licensees for compliance with the continuing education obligation.**

## Regulatory Analysis Form

(28) 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.

**The Board has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.**



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

RECEIVED  
IRRC

2010 NOV 24 A 10:12

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy 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)

\_\_\_\_\_  
BY: Andrew C. Clark

\_\_\_\_\_  
DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-4710

NOV 23 2010  
DATE OF APPROVAL

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

(Deputy General Counsel  
(Chief Counsel,  
Independent Agency  
(Strike inapplicable title)

BY: Robert C. Grubic, PE  
Robert C. Grubic, PE

[ ] Check if applicable  
Copy not approved.  
Objections attached.

TITLE: President  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] Check if applicable.  
No Attorney General approval  
or objection within 30 day  
after submission.

FINAL 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 §§ 37.1, 37.18-37.19, 37.111  
CONTINUING EDUCATION

their postdoctoral experience credentials evaluated under regulations in effect prior to that date. Applicants who commence postdoctoral supervised experience after that date will have their postdoctoral experience evaluated under the regulations in effect at that time.

(6) *Supervised practice following completion of training.* Upon completion of the required supervisory hours, a psychology resident may practice psychology under the supervision of a licensed psychologist until the psychology resident obtains a license, under § 41.58 (relating to standards for the employment and supervision of unlicensed persons with graduate training in psychology) or may practice psychology in exempt settings under section 3(4), (6), (8) and (10) of the act (63 P. S. § 1203(4), (6), (8) and (10)).

#### EXAMINATIONS

##### § 41.41. Examinations.

(a) To be eligible to take either portion of the licensure examination, the applicant shall have obtained a doctoral degree in psychology or a field related to psychology and completed all degree requirements set forth in § 41.31 (relating to educational qualifications).

(b) The licensure examination is composed of [ a ] two portions: the National Examination for Professional Practice in Psychology (EPPP) and [ State portion ] the Pennsylvania Psychology Law Examination (PPLE). Applicants shall obtain a passing score [ to qualify for licensure ] on each portion. Information about the contents of the examination is available from the Board office.

(c) If an applicant, without reasons satisfactory to the Board, fails to report for both the first examination and the one subsequent to it, the applicant's application will be considered to have been withdrawn. If the applicant wishes to take a future examination, a new application shall be submitted to the Board. The application will be reviewed on the basis of the law and the regulations existing at the time of submission.

(d) An applicant who has been deemed ineligible to take the examination will be notified in writing of the reasons for ineligibility, whereupon the applicant may correct the causes for the ineligibility and resubmit an application, or, within 30 days of the notice, file a request for reconsideration or an appeal under 2 Pa.C.S. §§ 501—507 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). A request for reconsideration must give the reasons for the applicant's request, must be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider, and may include a request for an informal interview before the Board.

[Pa.B. Doc. No. 09-801. Filed for public inspection May 1, 2009, 9:00 a.m.]

## STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

[ 49 PA. CODE CH. 37 ]

Continuing Education

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) proposes to amend §§ 37.1, 37.17 and 37.18 (relating to definitions; schedule of examination fees; and reactivation of licensure status) and to add § 37.19 (relating to biennial renewal of licensure status) and §§ 37.111—37.115 (relating to continuing education), to read as set forth in Annex A.

#### *Effective Date*

The amendments will be effective upon publication of the final-form regulations in the *Pennsylvania Bulletin*. The Board anticipates that licensees will first be required to complete continuing education during the September 1, 2009, through August 31, 2011, biennial renewal period.

#### *Statutory Authority*

This proposed rulemaking is authorized under sections 4(l) and 4.5(a) of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P. S. §§ 151.4(l) and 151.4.5 (a)).

#### *Background and Need for the Amendment*

Act 170 of 2006 added to the act section 4.5 regarding mandatory continuing education. Section 4.5(a) of the act (63 P. S. § 151.4.5(a)) requires licensees to complete 24 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal and requires the Board to promulgate regulations to enforce the continuing education requirement.

#### *Description of the Proposed Amendments*

##### *Proposed § 37.1 (relating to definitions)*

Existing § 37.1 would be amended to include definitions of additional terms used in the continuing education regulations. First, an hour of continuing education would be defined as 60 minutes of actual instruction in an approved course.

Section 4.5(e) of the act prohibits credit being given for any course in practice building, but the act does not define this term. Proposed § 37.1 would define the term "practice building" as marketing or any other activity having as its primary purpose increasing the business volume or revenue of a licensee or employer and does not involve the practice of engineering, land surveying or geology, as defined in section 2 of the act. However, section 2 of the act (63 P. S. § 149) defines the practice of land surveying to include "procuring or attempting to procure land surveying work" and managing any business that solicits or practices land surveying. The Board has included this activity, along with analogous activity by engineers or geologists, in the definition of "practice building."

*Proposed § 37.17 (relating to schedule of fees)*

Section 37.17 would be amended to provide that the fee to review an application for continuing education course approval, as described in proposed § 37.114 (relating to approval of continuing education courses) is \$100. The fee was determined as the amount necessary to recover the Board's cost of providing the service.

*Proposed § 37.18 (relating to reactivation of licensure status)*

The proposed rulemaking would amend § 37.18(1) to require that a licensee applying to reactivate licensure status include proof of completion of mandatory continuing education during the prior biennium. Because continuing education is generally required as a condition of renewal, a licensee who has not completed the mandatory continuing education may, without any penalty, permit his license and registration to become inactive until the licensee completes the required amount of continuing education. Proposed § 37.18(1) would permit of a licensee seeking reactivation to complete the required continuing education during the current biennium, an exception to the general rule of proposed § 37.111(b) regarding continuing education may satisfy the credit hour requirements only for the biennium in which it was completed. Notwithstanding proposed § 37.111(d) (licensee who fails to complete mandatory continuing education may renew but must pay a civil penalty and complete the required amount of continuing education within 6 months, providing to the Board proof of completion), reactivation would not be granted until the licensee completes the required continuing education of the prior biennium.

*Proposed § 37.19 (relating to biennial renewal of licensure status)*

The Board's current regulations do not include any provisions for biennial renewal of registration. The proposed rulemaking would add § 37.19 to set forth standard provisions for licensure renewal. Proposed § 37.19(a) would set the expiration date of each biennial renewal period as September 30 of each odd-numbered year and require licensees to renew each biennial period to be permitted to practice. Proposed § 37.19(b) would require a licensee to notify the Board of the licensee's current address and note that, although the Board will send renewal documentation to the address of record, it is the licensee's responsibility to renew the license. A licensee may renew online or submit a written, paper application for renewal. Proposed § 37.19(c) would require each licensee, in applying to renew, to complete and submit the application with the required fee, disclose any other license to practice engineering, land surveying or geology, and disclose any disciplinary action taken or pending in any other jurisdiction by an appropriate licensing authority.

Specific to continuing education, proposed § 37.19(c)(4) would require the licensee to verify that the licensee has complied with the continuing education requirements or acknowledge that the licensee will be subject to the sanctions of proposed § 37.114(d).

*Proposed § 37.111 (relating to credit hour requirements)*

The proposed rulemaking would add § 37.111 to set forth the general credit hour requirements. In proposed § 37.111(a), each licensee would be required to complete at least 24 hours of approved continuing education. A licensee who holds multiple licenses would have to complete the required amount of continuing education for each license. However, if a licensee completes continuing education that is appropriate to more than one licensure

class, the credit could be applied to all licenses for which the course is appropriate. Under proposed § 37.111(b), continuing education could only be applied to satisfy the requirement for the biennial period in which it was earned. However, credits made up in order to reactivate an expired license or upon Board order for missed credits may be applied to the prior biennium instead of the current biennium. Credit, of course, could not be applied more than once. Proposed § 37.111(c) would set the initial obligation to complete continuing education with the October 1, 2009, through September 30, 2011, biennial renewal period.

Under proposed § 37.111(d), a licensee who has not completed the required amount of continuing education would be required to pay a civil penalty under 49 Pa. Code § 43b.13a (related to schedule of civil penalties—engineers, land surveyors and geologists). The civil penalty schedule for continuing education violations (first offense) will be promulgated by the Commissioner of Professional and Occupational Affairs in a separate rule-making package. See 39 Pa.B. 2210 (May 2, 2009). Second or subsequent offenses will subject the licensee to discipline under section 4(g) of the act (63 P.S. § 151(g), which authorizes the Board to discipline a licensee for violating the act or a regulation of the Board. A licensee who did not complete the required amount of continuing education would be required to complete the entire amount of mandatory continuing education and provide the Board with proof within 6 months.

Section 4.5(c) of the act (63 P.S. § 151.4.5(c)) provides that a licensee may request a waiver of the continuing education requirement due to demonstrated hardship, such as serious illness or military service. The request must be in writing, with appropriate documentation attached, and show why the licensee is unable to comply with the continuing education requirement. The Board must consider each request on a case-by-case basis and notify the licensee in writing of its decision. Because the statute addresses all substantive requirements, proposed § 37.111(e) would only require that the request be submitted at least 90 days in advance of the end of the renewal period and note that the waiver may include extending the deadline to complete the required continuing education.

*Proposed § 37.112 (relating to reporting completion of continuing education)*

Under proposed § 37.112(a), a licensee could prove completion of a continuing education course through a certified continuing education record, as proposed § 37.115(a)(6) requires the provider to issue to the attendee. Proposed § 37.112(b) would require licensees to maintain proof of completion of the continuing education for 5 years. In proposed § 37.112(c), the Board announces that it will verify compliance with the continuing education requirements by auditing licensees.

*Proposed § 37.113 (relating to credit for approved continuing education)*

Proposed § 37.113 sets forth the types of courses for which a licensee may obtain credit. Under proposed § 37.113(a), credit is only available for courses either preapproved by the Board under proposed § 37.114(a) (application not required) or explicitly approved by the Board. Proposed § 37.113(b) would permit credit for continuing education in any course on any subject matter falling within the definitions of the practice of engineering, land surveying or geology in section 2 of the act, as appropriate to the license. As prohibited by section 4.5(e)

of the act, credit may not be earned in any course in practice building or office management. Under proposed § 37.113(c), credit may be awarded to an attendee for only one presentation of a particular course during a given renewal period. However, proposed § 37.113(d) would permit an instructor of continuing education to receive credit for attending the course and also to receive credit for preparing for the course—not to exceed the amount of credit available for attending. Proposed § 37.113(e) would prohibit continuing education credit for authoring an article, participating in a professional society or obtaining a patent.

*Proposed § 37.114 (relating to approval of continuing education courses)*

Section 4.5(e) of the act requires that "all courses, locations, instructors and providers of mandatory continuing education shall be approved by the Board." The Board anticipates that, for its approximately 37,000 licensees each taking 24 hours of continuing education in each renewal period, between 7,500 and 10,000 courses, will be offered for licensees each year. Because the Board does not have the resources to evaluate in full this large a number of courses in advance, while still complying with the statutory commandment to approve courses and the like, proposed § 37.114(a) would relieve from the obligation to apply for approval courses offered by various pre-approved providers, so long as the course is in appropriate subject matter and the course provider issues to each attending licensee a certified continuing education record. The list of preapproved courses/providers includes: advanced level courses offered by those programs whose graduates would qualify to sit for the various licensure examinations; graduate level courses in engineering, land surveying or geology; courses offered by accredited colleges or universities that are designed for continuing education, rather than qualification for licensure; courses offered by providers certified by an organization approved by the United States Department of Education to certify providers of continuing education; courses offered or approved by professional licensing authorities or organizations of professional licensing authorities; courses offered by agencies of the Federal government; courses offered by agencies of the various state governments; courses offered by the various professional societies; and courses offered by organizations recognized in their field to set standards of design, construction or practice. It must be kept in mind that, as provided in proposed § 37.113, credit may be obtained only for courses in subject matter within the scope of practice of engineering, land surveying or geology, as appropriate to the license.

Proposed § 37.114(b) would provide a safety valve and permit any course offered by a provider who is not preapproved to be reviewed and approved by the Board.

*Proposed § 37.115 (relating to approval of continuing education courses upon application)*

Proposed § 37.115 sets forth the process for Board approval of courses of continuing education, which includes approval of the location, instructor and provider, for those courses and providers that are not preapproved, as well as the obligations of providers whose courses are approved by the Board upon application. Proposed § 37.114(b) would require the filing of a completed application and payment of the required fee for Board review of the course.

Under proposed § 37.115(b), a separate application would be required for each course, including multiple presentations at various locations and multiple offerings.

Significant changes to the course content or change of instructors would require Board additional approval. If the location of a course is essential to presentation of course content, such as certain geology courses, a change in the location is a significant change in the course, and the provider must again seek approval.

Under proposed § 37.115(c), the Board notes its authority to deny course approval when the provider has previously failed or is not currently able to comply with the provider responsibilities of proposed § 37.115(e) or the course does not qualify under proposed § 37.113. The Board may deny approval when the course or application does not comply with the act or the Board's regulations. The Board may approve a portion of a course and deny the balance, that is, approve a course for fewer hours than sought by the applicant.

If an applicant has made false statements or grounds for denial later appear under proposed § 37.115(d) the Board would be able to terminate its prior approval of a course. A licensee who has completed a course prior to termination of the Board's approval would not lose that credit.

Proposed § 37.115(e) would set forth the responsibilities for providers of continuing education whose courses are approved by the Board upon application. A provider would be required to disclose in advance to prospective students the objectives, content, teaching method and the number of hours of continuing education credit approved by the Board; provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used; provide accurate instructional materials; utilize qualified instructors who are knowledgeable in the subject matter; evaluate the program through the use of questionnaires of the participants and instructors; issue a certified continuing education record to each participant; and retain attendance records, written outlines, and a summary of evaluations for 5 years. A provider would be required to include in the continuing education record the name of the participant, the name of the provider, the date or dates of the course, the name and any Board issued approval number of the course, and the number of hours of continuing education credit.

Under proposed § 37.115(f), the Board will maintain a list of approved courses in a form accessible to licensees and the public.

Because a provider might not seek Board approval for a course that is not preapproved, but a licensee attending the course might want credit, proposed § 37.115(g) would permit a licensee to apply for course approval and to do so after the course has been given. When more than one attendee of a course applies for approval, the Board will consolidate the applications and will not collect more than one fee for that review.

*Fiscal Impact and Paperwork Requirements*

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

*Sunset Date*

The Board continuously monitors the cost effectiveness of its 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 22, 2009, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-ENGINEER@state.pa.us, within 30 days of publication of this proposed rulemaking in the Pennsylvania Bulletin. Reference No. 16A-4710 (continuing education), when submitting comments.

ROBERT C. GRUBIC, P. E., PLS,
President

Fiscal Note: 16A-4710. No fiscal impact; (8) recommends adoption.

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:

\* \* \* \* \*

Hour of continuing education—Sixty minutes of actual instruction in an approved course of continuing education.

Practice building—Marketing or any other activity that has as its primary purpose increasing the business volume or revenue of a licensee or employer and does not involve the practice of engineering, land surveying or geology as defined in section 2 of the act (63 P. S. § 149).

(i) The term includes "procuring or offering to procure land surveying work for himself or others; managing or conducting as managers, proprietors or agent any place of business from which land surveying work is solicited, performed, or practiced" as included in the definition of "practice of

land surveying" in section 2(d) of the act. The term includes procuring or offering to procure engineering or geologist work for himself or others; managing or conducting as managers, proprietors or agent any place of business from which engineering or geologist work is solicited, performed or practiced.

(ii) The term does not include education in a professional area merely because it would expand the licensee's skills enabling the licensee to practice in an additional area.

\* \* \* \* \*

QUALIFICATIONS FOR LICENSURE

§ 37.17. Schedule of fees.

\* \* \* \* \*

(c) Other fees. The Board will charge the following fees:

Application for continuing education course approval ..... \$100

\* \* \* \* \*

§ 37.18. Reactivation of licensure status.

A licensed engineer, land surveyor or geologist who has allowed his licensure status to lapse by failing to register biennially with the Board may apply to the Board for reactivation of licensure status by satisfying the requirements of paragraph (1) on forms prescribed by the Board.

(1) A licensee applying for reactivation of licensure status is required to pay the current registration fee and submit a [ notarized affidavit setting forth ] reactivation application verifying the period of time in which the licensee did not practice in this Commonwealth. An application for reactivation must also include the documentation required under § 37.112 (relating to reporting completion of continuing education) for those courses sufficient to satisfy the requirement for the immediately preceding biennium, and those courses may be completed during the current biennium. Unless excused by the Board for good cause under section 4.5(c) of the act (63 P. S. § 151.5(c)), the Board will not reactivate any license until the required continuing education for the preceding biennium has been completed.

\* \* \* \* \*

§ 37.19. Biennial renewal of licensure status.

(a) A licensee shall register each biennial period to retain the right to practice in this Commonwealth. Initial registration shall automatically occur when a license is issued. Registration for a biennial period shall expire on September 30 of every odd numbered year.

(b) If a licensee changes the mailing address of record, the licensee shall notify the Board in writing within 10 days thereafter. Notice of renewal will be forwarded to the licensee's last known address on file with the Board. Failure of the Board to send or of the licensee to receive a biennial registration application does not relieve the licensee of the biennial registration responsibility.

(c) A licensee applying for biennial license renewal shall:

(1) Complete and submit the renewal application, including payment of the biennial renewal fee as set forth in § 37.17 (relating to schedule of fees).

(2) Disclose any license to practice engineering, land surveying or geology in another state, territory, possession or country.

(3) Disclose any disciplinary action taken or pending before the appropriate licensing authority in any other jurisdiction since the most recent application for renewal. A licensee shall disclose disciplinary action in another jurisdiction whether or not the licensee holds an active license to practice in the other jurisdiction.

(4) Disclose any pending criminal charges and any finding or verdict of guilt, admission of guilt, plea of *nolo contendere*, or other criminal conviction since the most recent application for renewal.

(5) Verify that the licensee has complied with the continuing education requirements mandated by section 4.5 of the act (63 P. S. § 151.5) during the biennial period immediately preceding the period for which renewal is sought in accordance with §§ 37.111—37.115 (relating to continuing education) or acknowledge that the licensee will be subject to the sanctions under § 37.111(d) (relating to credit hour requirements).

#### CONTINUING EDUCATION

##### § 37.111. Credit hour requirements.

(a) During each biennial renewal period, a licensee shall complete 24 hours of continuing education. A licensee who holds more than one license from the Board shall complete the required hours of continuing education to renew each license. A licensee who completes a course applicable to more than one class of license may apply the credit to each license held by the licensee for which the course is applicable.

(b) Except as necessary to comply with § 37.18(1) (relating to reactivation of licensure status), as permitted under subsection (d), or as directed by the Board, continuing education may satisfy the requirement of subsection (a) only for the biennium during which it was completed. No hour of continuing education may be used to satisfy the requirement of subsection (a) for more than one biennium.

(c) The requirement of subsection (a) will first take effect as follows:

(1) During the October 1, 2009, through September 30, 2011, biennial renewal period, a licensee shall complete 24 hours of continuing education.

(2) During each biennial renewal period subsequent to September 30, 2011, a licensee shall complete 24 hours of continuing education.

(d) Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 11(b) of the act (63 P. S. § 158(b)) in accordance with the schedule of civil penalties in § 43b.13a (relating to schedule of civil penalties—engineers, land surveyors and geologists). Within 6 months after the end of the renewal period for which the required amount of continuing education was not completed, the licensee shall make up the deficiency and provide proof of the entire required amount of continuing education as set forth in § 37.112 (relating to reporting completion of continuing education). In addition to any

civil penalty assessed under this subsection, failure to provide the Board with proof of the required amount of continuing education within 6 months after the beginning of a biennial period for which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 4(g) of the act (63 P. S. § 151(g)). Failure to complete the required amount of continuing education within 6 months after the beginning of a biennial period for which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 4(g) of the act.

(e) A licensee seeking waiver of the continuing education requirements under section 4.5(c) of the act (63 P. S. § 151.5(c)) shall submit the request with all supporting documentation to the Board at least 90 days prior to end of the renewal period for which waiver is sought. Waiver may include extending the deadline by which the required continuing education must be completed.

##### § 37.112. Reporting completion of continuing education.

(a) Proof of completion of a course of continuing education shall consist of a certified continuing education record issued by the course provider, including:

(1) The name of the participant.

(2) The name of the provider.

(3) The date or dates of the course.

(4) The name and any Board issued approval number of the course.

(5) The number of hours of continuing education or academic credit.

(b) A licensee shall retain proof of completion of continuing education for 5 years after completion of the continuing education or after the completion of the renewal period during which the continuing education was required, whichever is later.

(c) The Board will audit licensees to verify compliance with continuing education requirements.

##### § 37.113. Credit for approved continuing education.

(a) Credit for continuing education will be granted only for courses exempt from approval under § 37.114(a) (relating to approval of continuing education courses) or approved by the Board under § 37.114(b).

(b) Unless limited by this section, continuing education credit may be earned in a course on any subject matter falling within the definitions of the practice of engineering, land surveying or geology in section 2 of the act (63 P. S. § 149), as appropriate to the license. Continuing education credit may not be earned in courses in practice building or office management.

(c) A licensee may not receive credit for more than one presentation of a particular course in a given renewal period.

(d) A licensee teaching a course of continuing education may receive the same credit that a licensee attending the course would receive and may

also receive credit for time spent in preparation. Credit for time spent in preparation may not exceed the credit available for a licensee attending the course.

(e) No continuing education credit may be received for authoring an article, participating in a professional society or obtaining a patent.

**§ 37.114. Approval of continuing education courses.**

(a) The following continuing education courses, provided they otherwise meet the requirements of § 37.113 (relating to credit for approved continuing education) and the course provider issues to each attending licensee a certified continuing education record in accordance with § 37.112(a) (relating to reporting completion of continuing education), are exempt from the approval requirement:

(1) A junior/senior or above level course offered as part of a program that satisfies the educational requirements for licensure under § 37.31(1)(i) or (ii), § 37.36(1), or § 37.47(1)(i) or (ii) (relating to eligibility for certification or licensure, or both; eligibility for licensure; and eligibility for certification or licensure, or both).

(2) A graduate course offered as part of an engineering, land surveying or geology program of an accredited college or university.

(3) A course offered by an accredited college or university that offers a program that satisfies the educational requirements for licensure under §§ 37.31(1)(i) or (ii), 37.36(1) or 37.47(1)(i) or (ii) that is designed for continuing education and not for the educational program required for licensure.

(4) A course offered by a provider certified by an organization approved by the United States Department of Education to certify providers of continuing education.

(5) A course offered or approved by a professional licensing authority or National organization of professional licensing authorities or affiliate.

(6) A course offered by an agency of the United States government.

(7) A course offered by an agency of the government of a state or territory of the United States or the District of Columbia.

(8) A course offered by a National professional society or affiliate or subsidiary.

(9) A course offered by a Statewide professional society or affiliate or subsidiary.

(10) A course concerning the standards it sets by an association or other organization or its affiliate or subsidiary that is recognized in its field to set standards for design, construction, or other aspect of professional practice.

(b) The following continuing education courses are approved:

(1) A course approved by the Board under § 37.115(a)–(f) (relating to approval of continuing education courses upon application) upon application of the provider.

(2) A course approved by the Board under § 37.115(g) upon application of an attending licensee.

**§ 37.115. Approval of continuing education courses upon application.**

(a) A provider of continuing education other than those in § 37.114(a) (relating to approval of continuing education courses) seeking approval of a course of continuing education shall apply for approval on forms provided by the Board and shall provide the information required by those application forms for the Board to fulfill its duties under this section. The application shall be submitted to the Board with payment of the fee as required in § 37.17 (relating to schedule of fees).

(b) A provider shall apply for approval of each course of continuing education, which may include multiple presentations of the course at various locations and multiple offerings of the course. Prior to making any significant change in course content or using instructors other than those described in the provider's approved continuing education application, the provider shall obtain approval from the Board for the proposed changes. If the location is essential to presentation of the course content, any change in location constitutes a change in the course, and approval must again be sought from the Board.

(c) The Board may deny approval of a course of continuing education when the provider has previously failed or is not currently able to comply with the provider responsibilities of subsection (f) or the course does not qualify under § 37.113 (relating to credit for approved continuing education). The Board may approve in part and deny in part an application for approval of a course. The Board may deny an application for course approval that does not comply with the act or this chapter.

(d) The Board may terminate its prior approval of a course of continuing education when the applicant made one or more false or misleading material statements on the application. The Board may also terminate in part or in whole its prior approval of a course when it is later determined that the Board has grounds to deny approval in accordance with this section. Termination of approval will not forfeit credit for a course completed prior to termination of approval.

(e) For each course of continuing education, the provider shall:

(1) Disclose in advance to prospective attendees the objectives, content, teaching method and the number of hours of continuing education credit approved by the Board.

(2) Provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used.

(3) Provide accurate instructional materials.

(4) Utilize qualified instructors who are knowledgeable in the subject matter.

(5) Evaluate the program through the use of questionnaires of the participants and instructors.

(6) Issue a certified continuing education record to each participant.

(7) Retain attendance records, written outlines, and a summary of evaluations for 5 years.

(f) The Board will maintain a list of approved courses in a form accessible to licensees and the public.

(g) If a course is not exempt from approval under § 37.114(a) and the provider has not separately sought approval under subsections (a)—(f), a licensee attending the course may apply for approval of a course of continuing education as set forth in subsection (a). An attendee may seek approval after completion of the course, though the Board may deny approval as otherwise provided in this subchapter. The Board may waive the requirements of subsections (b) and (e) when a licensee attending a course applies for approval. The Board will not collect more than one fee from attendees for review of applications for approval of the same course.

[Pa.B. Doc. No. 09-802. Filed for public inspection May 1, 2009, 9:00 a.m.]



ARTHUR COCCODRILLI, CHAIRMAN  
GEORGE D. BEDWICK, VICE CHAIRMAN  
S. DAVID FINEMAN, ESQ.  
SILVAN B. LUTKEWITTE III  
JOHN F. MIZNER, ESQ.  
KIM KAUFMAN, EXECUTIVE DIRECTOR  
LESLIE A. LEWIS JOHNSON, CHIEF COUNSEL



PHONE: (717) 783-5417  
FAX: (717) 783-2664  
lrrc@lrrc.state.pa.us  
<http://www.lrrc.state.pa.us>

## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

October 15, 2010

Robert C. Grubic, P.E., PLS, Chair  
State Registration Board for Professional Engineers, Land Surveyors and Geologists  
2601 North Third Street  
Harrisburg, PA 17110

Re: Regulation #16A-4710 (IRRC #2762)  
State Registration Board for Professional Engineers, Land Surveyors and Geologists  
Continuing Education

Dear Mr. Grubic:

The Independent Regulatory Review Commission disapproved your regulation on October 7, 2010. Our order is enclosed and will be available on our website at [www.lrrc.state.pa.us](http://www.lrrc.state.pa.us).

Within 40 days of receipt of our order, Section 7(a) of the Regulatory Review Act requires you to select one of the following options: (1) proceed with promulgation under Section 7(b); (2) proceed with promulgation under Section 7(c); or (3) withdraw the regulation. If you do not take any action within this period, the regulation is deemed withdrawn.

If you or your staff have any questions, please contact Kim Kaufman, our Executive Director, at 783-5506.

Sincerely,

George D. Bedwick  
Acting Chairman  
wbg  
Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Michael P. McGeehan, Majority Chairman, House Professional Licensure Committee  
Honorable Julie Harhart, Minority Chairman, House Professional Licensure Committee  
Honorable Basil L. Merenda, Acting Secretary, Department of State

**INDEPENDENT REGULATORY REVIEW COMMISSION  
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held October 7, 2010

George D. Bedwick, Acting Chairman  
S. David Fineman, Esq., by Phone  
Silvan B. Lutkewitte, III  
John F. Mizner, Esq., by Phone

Regulation No. 16A-4710 (#2762)  
State Registration Board for Professional  
Engineers, Land Surveyors and Geologists  
Continuing Education

On April 22, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board). This rulemaking amends 49 Pa. Code Chapter 37. The proposed regulation was published in the May 2, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 3, 2010.

This regulation establishes continuing education requirements for licensees of the Board as set forth by Engineer, Land Surveyor and Geologist Registration Law (Law), as amended by Act 25 of 2010. The rulemaking provides licensees of the Board that have not met the continuing education requirements of the law six months to correct that deficiency while continuing to practice. We find that the Board does not have the statutory authority to provide licensees with an additional six months to meet continuing education requirements. As explained below, this regulation does not meet the Regulatory Review Act criteria of statutory authority to promulgate the regulation and protection of the public health safety and welfare. 71 P.S. § 745.5b(a) and (b)(2).

Continuing professional competency requirements are addressed in the Law at 63 P.S. § 151.5. Subsections (a), (b) and (c) of that section, in relevant part, read as follows:

- a) In order to help safeguard life, health and property and to promote the public welfare, the practice of professional engineering, professional land surveying and professional geology in this Commonwealth requires continuing professional competency.
- b) Each licensee shall be required to meet the continuing professional competency requirements of this section as a condition for licensure renewal.
- c) Each licensee shall be required to obtain twenty-four PDH units during the biennial renewal period.

Based on the statutory language above, it is clear that the General Assembly found that professional competency of professional engineers, land surveyors and geologists, is needed to help safeguard life, health and property and to promote the public welfare. It is equally clear that the General Assembly's intended method for ensuring competency is by requiring licensees to obtain twenty-four Professional Development Hours (PDH) units *during* the biennial period.

Sections 37.111(c) and (d) of the regulation contain provisions that allow licensees to continue to practice if they did not obtain the required PDH units during the biennial period by providing an additional six months to obtain the units. These provisions are not consistent with the intent of §151.5(a) and the statutory requirements of § 151.5(b) and (c). Therefore, they violate the Regulatory Review Act criteria cited above.

In addition, other sections of the rulemaking violate the Regulatory Review Act criteria of clarity. See 71 P.S. 745.5b(b)(3). First, § 37.18(1) includes a reference to 63 P.S. § 151.5(c) of the Law. Act 25 of 2010 amended the Law and the correct reference is 63 P.S. § 151.5(g).

Second, § 37.111(a) includes the new term "continuing education activity." This term is unclear and should be defined.


Third, § 37.111(g) is a new subsection that requires licensees to maintain "records" verifying completion of continuing education for five years. Act 25 of 2010 amendments to the Law allow PDH units to be earned for activities such as "completion of correspondence, televised, videotaped and other short courses or tutorials relevant to professional practice." See 63 P.S. § 151.5(c)(3). Given the various methods for earning PDH units, we believe the regulated community would benefit if a definition of "records" was added to the rulemaking.

We have determined this regulation is not consistent with the statutory authority of the Board (63 P.S. §§ 151.5 (a), (b) and (c)) and the intention of the General Assembly. Additionally after considering all of the other criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

**BY ORDER OF THE COMMISSION:**

This regulation is disapproved.



  
George D. Bedwick, Acting Chairman

**REPORT OF THE STATE REGISTRATION BOARD FOR  
PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS:  
RESPONSE TO IRRC'S ORDER DISAPPROVING  
FINAL RULEMAKING 16A-4710 (CONTINUING EDUCATION)**

On September 3, 2010, the State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) delivered final rulemaking 16A-4710 (continuing education) to the Independent Regulatory Review Commission (IRRC), the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). On September 21, 2010, the HPLC met and approved the final rulemaking, and on October 6, 2010, the SCP/PLC was deemed to have approved the final rulemaking. At its meeting on October 7, 2010, IRRC disapproved the final rulemaking. The Board has determined that it should revise the final rulemaking under section 7(c) of the Regulatory Review Act (71 P.S. § 745.7(c)) and now submits this report responding to IRRC's disapproval order, as required by section 7(c) of the Regulatory Review Act and 1 Pa. Code § 311.4(3)).

As stated in its disapproval order of October 15, 2010, IRRC disapproved the final rulemaking because it concluded that the rulemaking is not consistent with the Board's statutory authority and therefore not in the public interest, under section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

As intended to be added by the final rulemaking (with emphasis supplied), § 37.19(c)(5) would provide: "A licensee applying for biennial licensure renewal shall: (5) Verify that the licensee has complied with the continuing education requirements mandated by section 4.5 of the act (63 P.S. § 151.5) during the biennial period immediately preceding the period for which renewal is sought in accordance with § 37.111 (relating to continuing education) **or acknowledge that the licensee will be subject to the sanctions of § 37.111(d).**" As intended to be added by this final rulemaking, §

37.111(d) would provide: “Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 11(b) of the act (63 P.S. § 158(b)) in accordance with the schedule of civil penalties in § 43b.13a (relating to schedule of civil penalties – engineers, land surveyors and geologists). Within 6 months after the end of the renewal period during which the required amount of continuing education was not completed, the licensee shall make up the deficiency and shall provide proof of the entire required amount of continuing education as set forth in section 4.5(f) of the act (63 P.S. § 151.5(f)).” As a result, a licensee who has not completed the required amount of continuing education would still have the license renewed, subject to paying the civil penalty levied by citation and making up the deficiency.

IRRC looked to section 4.5 of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P.S. § 151.5), which provides in part (emphasis supplied):

- (a) In order to help safeguard life, health and property and to promote the public welfare, the practice of professional engineering, professional land surveying and professional geology in this Commonwealth requires continuing professional competency.
- (b) **Each licensee shall be required to meet the continuing professional competency requirements of this section as a condition for licensure renewal. ....**
- (c) Each licensee shall be required to obtain twenty-four PDH units during the biennial renewal period. If a licensee exceeds the requirement in any renewal period, a maximum of twelve PDH units may be carried forward into the subsequent renewal period. ....

\* \* \*

- (g)(1) A licensee may be exempt from the requirements of this section for any of the following reasons: (i) [temporary military service]; (ii) A licensee experiencing physical disability, illness or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board.

\* \* \*

Because the only exceptions excusing compliance with the requirement of mandatory continuing education in section 4.5 of the act are for temporary military service and physical disability,

illness or other extenuating circumstances as reviewed and approved by the Board, IRRC concluded that, without obtaining a waiver, a licensee is required to complete mandatory continuing education as a condition of renewal. IRRC therefore determined that the Board does not have statutory authority to promulgate a regulation that would permit the Board to renew the license of a licensee who acknowledges not completing mandatory continuing education. Based upon IRRC's analysis, the Board has determined that it should revise the rulemaking to abandon this scheme.

Instead of the proposed scheme, in the absence of a waiver, the Board will not renew the license of a licensee who acknowledges not having completed the required amount of continuing education. A licensee who did not complete the required amount of continuing education will be subject to disciplinary action in the form of a civil penalty via citation and will be required to make up the deficiency within 6 months after issuance of that citation. A licensee who fails to make up the deficiency will be subject to formal disciplinary action, which could result in the suspension of the license. Notwithstanding these provisions, a licensee who has not completed the required amount of continuing education may avoid disciplinary action by permitting the license to expire and not practicing the profession until the licensee has completed the required amount of continuing education and has had the license reactivated.

IRRC also noted three other items which it concluded do not satisfy the requirement of clarity under section 5.2(b)(3) of the Regulatory Review Act (71 P.S. § 745.5b(b)(3)). The Board has corrected the typographical error in § 37.18(1). IRRC concluded that the Board's requirement in § 37.111(g) that licensees "maintain records verifying completion of continuing education for 5 years after completion of the activity" was not sufficiently clear as to what is a "record" and what is an "activity" and that therefore the Board should define these terms. The Board disagrees and has not provided additional definitions for these terms. Section 2(o) of the act defines "activity" as "any

qualifying activity with a clear purpose and objective which will maintain, improve or expand the skills and knowledge relevant to a licensee's professional practice." Section 4.5(f) of the act requires licensees to maintain the following required records: "a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name and PDH credits earned;" and "attendance verification records in the form of completion certificates or other documents supporting evidence of attendance." This statutory provision is sufficiently clear to notify licensees of what records must be maintained. In promulgating § 37.111(g), the Board intended this provision only to expand upon these requirements to obligate licensees to maintain those records for at least 5 years and provide consequences for failure to maintain them.

IRRC raised no objection to the final rulemaking other than as stated above.

As discussed above, the Board has revised its rulemaking under section 7(c) of the Regulatory Review Act (71 P.S. § 745.7(c)) and now delivers this revised final rulemaking to IRRC, the HPLC and the SCP/PLC.

Robert C. Grubic, PE, President  
State Registration Board for Professional Engineers, Land  
Surveyors and Geologists

**COMMENTATORS LIST**  
**Reg. 16A-4710**

ROBERT B CAPLAN PE  
CAPLAN ENGINEERING COMPANY  
7531 ROSLYN STREET  
PITTSBURGH PA 15218

CHARLES D BLUMENSCHNEIN PE  
NA WATER SYSTEMS LLC  
AIRSIDE BUSINESS PARK  
250 AIRSIDE DRIVE  
MOON TOWNSHIP PA 15108

PAUL D LAPIERRE PE PLS PP  
LAND DIMENSIONS ENGINEERING  
6 EAST HIGH STREET  
GLASSBORO NJ 08028

MATTHEW R WEAVER PE  
PA DEPT OF TRANSPORTATION  
BUREAU OF HIGHWAY SAFETY AND TRAFFI  
400 NORTH STREET 6<sup>TH</sup> FLOOR  
HARRISBURG PA 17120-0064

DR WILLIAM R ADAMS JR PG PE  
661 EAST BEAU STREET  
WASHINGTON PA 15301

RHONDA HAKUNDY—JONES PG  
EXECUTIVE DIRECTOR  
PCPG  
116 FOREST DRIVE  
CAMP HILL PA 17011

MICHAEL FORTH PRESIDENT  
PITTSBURGH GEOLOGICAL SOCIETY  
PO BOX 58172  
PITTSBURGH PA 15209

HAROLD WEINBERG BCE MCE PE  
76 COURT STREET SUITE 20  
BROOKLYN NY 11201

JOHN F BRADSHAW PE PLS FNSPE  
JOHN D WANNER CAE  
PSPE  
908 N SECOND ST  
HARRISBURG PA 17102

DAVID H WIDMER PLS  
WIDMER ENGINEERING INC  
806 LINCOLN PLACE  
BEAVER FALLS PA 15010

R.S. Watral, PE  
[rwatral@comcast.net](mailto:rwatral@comcast.net)

Bob Kurilla  
[bob.kurilla@wgint.com](mailto:bob.kurilla@wgint.com)

J. Kevin Cotchen, PE  
[Kevin.Cotchen@sms-siemag.us](mailto:Kevin.Cotchen@sms-siemag.us)

Richard M. Schoedel, PE  
[rschoedel@comcast.net](mailto:rschoedel@comcast.net)



Michael Evens  
[michael.evans@sgs.com](mailto:michael.evans@sgs.com)

John L. Failla, Surveyor  
[jfailla2002@yahoo.com](mailto:jfailla2002@yahoo.com)

William W. Gorman, Jr., PE  
[wwgorman@msn.com](mailto:wwgorman@msn.com)

Gene C. Ulmer  
[gulmer@temple.edu](mailto:gulmer@temple.edu)

Jeffrey A. Ehler, PE, SE  
[jehler@is-ecg.com](mailto:jehler@is-ecg.com)

Brian S. Channer, PE  
[bchanner@wbcm.com](mailto:bchanner@wbcm.com)

Patrick Barry, PE  
[pjbarry@alblades.com](mailto:pjbarry@alblades.com)

Wanda Lambert  
[lambewf@auburn.edu](mailto:lambewf@auburn.edu)

Joyce Abrams  
[jAbrams@ashrae.org](mailto:jAbrams@ashrae.org)

Elmer Kuball, PE  
[acc@fairpoint.net](mailto:acc@fairpoint.net)

Wayne Duffett  
[wayne@tecassoc.com](mailto:wayne@tecassoc.com)

Christopher Dorang PE  
[Chris.Dorang@CH2M.com](mailto:Chris.Dorang@CH2M.com)

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) amends §§ 37.1 and 37.18 (relating to definitions; and reactivation of licensure status) and adds §§ 37.19 and 37.111 (relating to biennial registration; and continuing education), to read as set forth in Annex A.

#### Description and Need for the Rulemaking

The act of November 29, 2006 (P.L. 1534, No. 170) (Act 170) added section 4.5 of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P.S. § 151.5) to direct the Board to promulgate regulations establishing requirements of continuing education to be fulfilled by its licensees. Beginning with the renewal period designated by regulation, each licensee would be required to complete 24 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal. A licensee in the first biennium of licensure would be exempt from the continuing education, and upon written request demonstrating good cause to do so, the Board could waive all or a portion of the requirement for a licensee who was unable to complete the requirements due to serious illness, military service or other demonstrated hardship. A licensee seeking to reactivate an expired license would be required to show proof of compliance for the preceding biennium. Finally, the Board would be responsible to approve all courses, locations, instructors and providers of mandatory continuing education, but no credit could be awarded for courses in practice building or office management.

In May of 2009, the Board published proposed rulemaking to implement Act 170. After the notice of proposed rulemaking was published, the act was again amended. The act of May 12, 2010 (P.L. 192, No. 25) (Act 25) deleted all of the existing provisions of the act addressing continuing education. In their place, Act 25 provided requirements for continuing education modeled upon the model law and rules of the National Council of Examiners in Engineering and Surveying (NCEES), the national group of state licensing boards for engineers and land surveyors. Under section 4.5 (c) of the act as amended by Act 25, each licensee must now complete at least 24 professional development hours (PDH) of continuing education during each biennial renewal cycle and up to 12 PDH units may be carried forward into the subsequent renewal period. Continuing education should maintain, improve or expand skills and knowledge obtained prior to initial licensure, including law and ethics applicable to the profession, or develop new and relevant skills and knowledge; but no credit may be awarded for courses in practice building or office management. Continuing education may be earned for successful completion of college courses relevant to professional practice; completion of continuing education courses relevant to professional practice; completion of correspondence, televised, videotaped and other short courses or tutorials relevant to professional practice; completion of seminars, employer-sponsored courses, workshops or professional or technical presentations made at meetings, conventions or conferences relevant to professional practice; teaching, presenting or instructing in any of those previously-identified activities; authoring published papers, articles or books relevant to professional practice; or obtaining patents relevant to professional practice. Section 4.5(d) of the act provides a conversion of hours of activity into PDH units and also provides that a licensee teaching any of those activities would earn double the amount of credit normally available to participants. The Board may not require courses to be pre-approved, but does have final authority regarding approval of courses, credit, PDH value for courses, and other methods of earning credit under section 4.5(e) of the act. The Board must

accept credit earned in another jurisdiction for an activity that otherwise complies. The licensee is responsible to maintain records to support credits claimed, including a log of activities and attendance verification records such as completion certificates under section 4.5(f) of the act. Under section 4.5(g) of the act, a licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a year is exempt from completing continuing education during that year; and the Board may grant an exemption to a licensee who is unable to complete the required continuing education due to physical disability, illness or other extenuating circumstances. In addition, a licensee in the first renewal cycle of licensure is not required to complete continuing education. A licensee seeking to reactivate an inactive license must obtain all delinquent PDH units, up to a maximum of the biennial renewal requirement under section 4.5(h) of the act. Finally, section 5 of Act 25 requires licensees to first complete the continuing education requirements during the 2009 - 2011 biennium.

Based upon this statutory change, and upon consideration of all the comments received regarding the rulemaking as originally proposed, the Board has substantially amended the final-form rulemaking. The Board concluded that it should not review and approve any continuing education courses or providers, and has deleted all references to course or provider approvals. With minor exceptions as discussed below, this final rulemaking retains only the mechanism of enforcement of the continuing education requirement.

#### Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 39 Pa.B. 2218 (May 2, 2009), with a 30-day public comment period. The Board received numerous comments from a variety of members of the public. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1-745.12). The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The public comments raised many questions about particular courses, providers and the method of approving courses and providers, as well as determination of hours of credit. Because under Act 25 the Board will not be approving courses or providers, and because the amended act addresses the questions of what activity format and content are acceptable, the Board believes these comments are moot. Except as discussed below with regard to comments from the HPLC or IRRC, the public commenters did not otherwise address the procedural portions of the proposed rulemaking.

Though these requirements are not strictly procedural enforcement provisions, the Board has retained the requirement of proposed § 37.113(b) that no credit may be given for any activity in practice building or office management as provided in section 4.5(e) of the act; and has retained the requirement of proposed § 37.113(c) that a licensee may not receive credit for attending a course more than once or participating more than once in another specific activity during the same biennium. These provisions have been moved into § 37.111(a) and (b), respectively.

In its comments, the HPLC noted that Act 170 required the Board to promulgate regulations within 18 months. The Board acknowledges that this was not accomplished. The HPLC further advised the Board that the HPLC was currently working on legislation that would amend the continuing education requirements to be more consistent with current national standards of the specific profession than was the proposed rulemaking. Act 25 was the result of that effort. The HPLC and IRRC suggested that in proposed § 37.1 (relating to definitions), the definition of “hour of continuing education” use a standard of 50 minutes, rather than 60 minutes, to be consistent with this national standard. Because section 2(t) of the act (63 P.S. § 149(t)) now defines a “professional development hour” or PDH to be 50 minutes of instruction or presentation relevant to professional practice, the Board has deleted the proposed definition and instead has added to § 37.1 the statutory definition of PDH. Similarly, the HPLC suggested that the Board revise its proposed rulemaking to permit carryover of credits. Because section 4.5(c) of the act now permits a licensee to carryover up to 12 PDH units, the Board has also deleted this previously proposed restriction.

In developing its continuing education regulations, the Board envisioned a scheme of enforcement by which a licensee who did not complete the required amount of continuing education would be able to renew the license, but would have to pay a civil penalty under an Act 48 schedule based upon the amount of deficiency and to make up the entire deficiency within 6 months. It was intended that all professional licensing boards within the Bureau of Professional and Occupational Affairs that require continuing education would use a similar enforcement scheme. However, due to subsequently-raised concerns about statutory authority to renew the license of one who acknowledges not having completed the required amount of continuing education, the Board ultimately has abandoned this scheme. Instead, completion of the required amount of continuing education will be a condition of renewal, and a licensee who acknowledges not having completed the required amount of continuing education will not be renewed. Accordingly, the Board has revised proposed § 37.19(b)(5) to delete the opportunity for a licensee who has not completed the required amount of continuing education to renew and acknowledge being subject to the sanctions of § 37.111(d).

The HPLC requested information on how the Board will monitor the 6-month period of proposed § 37.111(d) during which a licensee must make up a deficiency in continuing education. As provided in renumbered § 37.111(f), the Board will audit licensees to verify compliance. If the licensee timely provides documentation showing that the licensee satisfied the continuing education requirement within the 6-month period, the licensee would be subject to a civil penalty based on the number of delinquent PDH units. If the licensee does not provide the documentation or does not complete all 24 PDH units of continuing education by the end of the 6-month period, the matter will be forwarded to the professional compliance office and the prosecution division to initiate formal disciplinary action.

While addressing these comments, the Board considered its audit process in more detail. In doing so, the Board realized that its regulations do not impose any specific obligation upon a licensee to comply with the audit. Accordingly, the Board has added § 37.111(f) to retain the notice previously proposed in § 37.112(c), that the Board will audit licensees to verify compliance with the continuing education requirements, and to also require a licensee who is

being audited to fully respond to an audit request within 30 days or another time period specified in the audit request.

The HPLC and IRRC questioned what is considered to be a certified record of continuing education as that term is used in proposed §§ 37.112(a) and 37.114(a). Because section 4.5(f) of the act requires licensees to maintain a log of continuing education activities and attendance verification records such as completion certificates, the Board has deleted these proposed regulatory provisions. The Board has added § 37.111(g) to repeat the statutory requirement that the licensee maintain records of continuing education for 5 years and to provide that the Board may infer from the failure to maintain records that the licensee did not complete continuing education. Obviously, this will require licensees to maintain records that substantiate compliance with the continuing education requirements and demonstrate that the licensee has earned specific amounts of credit in specific activities for which continuing education credit may be earned. The HPLC also requested an explanation of how the Board will implement proposed § 37.115(g) that would permit a licensee who attended a non-approved course to seek approval. As the Board will not be approving courses, it has deleted this provision.

IRRC pointed to the Board's estimate that the regulated community may have costs on the order of \$18.6 million per year to complete continuing education and questioned the Board's statement that compliance with the rulemaking should not have an adverse fiscal impact and will not impose additional paperwork requirements on the Commonwealth or the private sector. The Board's estimate was of the costs for licensees to complete continuing education as mandated by section 4.5 of the act. That obligation was imposed by the General Assembly through Act 170 and subsequently Act 25. The proposed regulations impose minimal additional costs. The statement that compliance should not have an adverse fiscal impact was intended to address the impact of the Board's method of enforcement established by the proposed regulations, which should impose no additional burden on those licensees who comply. The recordkeeping requirement of this final rulemaking, which requires licensees to keep records for at least 5 years, should impose no fiscal or administrative burden beyond that already imposed by Act 25 to maintain records of completion.

IRRC also pointed to the Board's estimate that licensees would be required to comply with the continuing education requirements during the 2009 - 2011 renewal cycle and asked whether, if the rulemaking is not final by September 2009, the Board will modify the compliance date and notify licensees. Section 5 of Act 25 now requires licensees to complete continuing education during the 2009 - 2011 renewal cycle. There is no provision to wait until regulations are promulgated. In May 2010, the Board notified its licensees of this requirement, both by direct mail and by email. Additionally, in its newsletters beginning in July, 2010, the Board has now reminded licensees that the continuing education requirements are already in effect. Additionally, in order to provide licensees with as much advance notice as possible, as provided in § 37.111(d), for the first renewal cycle only, the Board will not impose any disciplinary sanction on a licensee who, though failing to complete the required amount of continuing education during the 2009 - 2011 biennium, fully makes up the deficiency within 6 months, that is by April 1, 2012. Additionally, because as drafted they included the same standard, IRRC suggested combining the two separate statements of the continuing education obligation for the 2009 - 2011 and 2011 - 2013 renewal cycles into one provision. The Board had originally done

this to allow that the regulation might not be final prior to the beginning of the 2009 - 2011 cycle and could easily revise it to phase in the continuing education requirement. Because by statute the full obligation begins with the 2009 - 2011 cycle, the Board has followed IRRC's suggestion and has combined these two provisions into one.

IRRC questioned whether the term "criminal charges" as used in § 37.19(c)(4) (relating to biennial renewal of licensure status) requiring a licensee renewing a license to disclose any criminal charges would include misdemeanors and summary offenses. Because section 9124(b) of the Criminal History Record Information Act (18 Pa.C.S. § 9124(b)) prohibits the Board from imposing a disciplinary sanction based upon a summary offense, the Board did not intend this term to include summary offenses. However, because the Board may impose a disciplinary sanction based upon a misdemeanor conviction, the Board does intend misdemeanor charges to be included, as well as felony charges. Accordingly, the Board has revised § 37.19(c)(4) to refer specifically to misdemeanors and felonies to enhance clarity.

IRRC also asked why the Board included the phrase "as directed by the Board" in proposed § 37.111(b) when indicating that continuing education may sometimes be credited to a renewal cycle other than the one in which the continuing education was actually earned. This phrase was intended to allow the Board to order a licensee who did not complete continuing education on time to do so at the time of the subsequent disciplinary action and have those hours be applied to the requirement for the earlier renewal cycle. To aid clarity, the Board has revised this portion of proposed § 37.111(b) to read, "as otherwise ordered by the Board in a disciplinary action." Additionally, because section 4.5(c) of the act now permits carry-over of up to 12 PDH units into the next cycle, the Board has also revised § 37.111(b) to include an exception for continuing education credits "carried over from the prior biennium as permitted by section 4.5(c) of the act (63 P.S. § 151.5(c))." Further, because § 37.111(d) is no longer premised upon a licensee who did not complete the required amount of continuing education being permitted to renew subject to paying a civil penalty and making up the deficiency, the Board has revised the references to that subsection in § 37.111(b) as "to correct a deficiency as required by subsection (d)" rather than "as permitted by subsection (d)."

Because when published as proposed the Board intended to renew the license of a licensee who had not completed the required amount of continuing education subject to imposition of a civil penalty via citation and the obligation to make up the deficiency within 6 months, IRRC also requested the Board to explain the status of a license while the licensee is making up continuing education deficiency. Because the Board now will not renew the license if the licensee acknowledges not completing the required amount of continuing education, this concern is limited to those licensees who report having completed continuing education but have not actually done so. As the license has been renewed in reliance upon the licensee's representation that continuing education has been completed, that license is current and in good standing to the same extent as if the licensee had fully completed the continuing education requirement on time and will remain so unless and until the Board takes disciplinary action to suspend the license for failure to complete the required amount of continuing education on time and subsequent failure to make up the deficiency. While the audit process will begin upon notice following renewal, the time taken to audit the licensee and determine the amount of deficiency might result in the citation not issued and due until more than 6 months after the beginning of the

renewal cycle - the previously-proposed 6-month period in which to cure the deficiency. Accordingly, the Board has revised this provision to set the time limitation by which the deficiency must be cured not by the renewal date, but by the date disciplinary action is initiated by the issuance of a citation. Because continuing education is required to maintain competence, the failure to complete continuing education is not a violation if the licensee no longer practices until the continuing education deficiency is cured. Therefore, the Board has also provided in § 37.111(d) that a licensee who permits the license to expire and then ceases practice until completing the required amount of continuing education and then reactivates the license upon a demonstration that the deficiency has been cured should not be subject to disciplinary action for failing to initially complete the required amount of continuing education. A licensee who did not renew and continued to practice, despite having failed to complete the required continuing education, would be subject to disciplinary action both for failing to complete continuing education (under this subsection) and for practicing while the license was lapsed (under § 37.18(3)).

IRRC raised a concern about the clarity of proposed § 37.111(e) for waiver and suggested explicitly providing that waiver is for serious illness, military service or other demonstrated hardship as provided in section 4.5(g) of the act. Because that statutory section has been replaced, the Board has taken this suggestion and applied it with revised § 37.111(e) to use the new statutory language – “physical disability, illness or other extenuating circumstances.” Moreover, the Board has revised this provision to require the licensee to explain why the licensee is not able to complete continuing education on time and why a waiver will not harm the public interest. Although the proposed rulemaking would require a licensee seeking a waiver to request it at least 90 days before the end of the renewal cycle, the Board is concerned that this is not truly workable for a licensee who plans to complete continuing education near the end of the renewal cycle but is interrupted by disability, illness or other extenuating circumstances. Instead, the Board has simply provided that it might take up to 90 days to rule upon a request, giving the licensee who chooses to take the risk of such interruption better notice of the consequences.

IRRC suggested that the Board clarify in its final-form rulemaking its position on distance learning activities in § 37.114 (relating to approval of continuing education course). Because the Board will not be approving courses, it has deleted this proposed section. Because the statutory language provides no basis to categorically disallow on-line or other distance learning and instead in section 4.5(c)(3) of the act specifically authorizes correspondence, televised, videotaped or other short courses or tutorials relevant to professional practice, the Board will permit licensees to complete continuing education in this manner. IRRC also suggested actions to improve the clarity of proposed § 37.115 (relating to approval of continuing education courses upon application). Because the Board will not be approving courses, it has also deleted this proposed section.

IRRC also suggested revising the definition of “practice building” in § 37.1 to be gender-neutral. The Board used the word “himself” as to a land surveyor because it was quoting the language of section 2(d) of the act (63 P.S. § 149(d)) and again used the same word in an equivalent provision for an engineer or geologist, though there was no similar statutory provision. In response to IRRC’s comment, the Board has amended the provision to be gender neutral by using the term “the licensee” when referring to a licensed land surveyor, engineer or

geologist. The Board has added to § 37.1 a definition for the open-ended term “office management” to include mechanical office and business skills, such as typing, speed writing, preparation of advertising copy, development of sales promotion devices, word processing, calculator and computer operation, and internal operations and procedures that do not have a professional interest. Office management does not include the use of technology in delivering engineering, land surveying or geologic services.

Finally, under section 5 of Act 25, licensees must begin to comply with the continuing education requirement during the 2009-11 biennial renewal cycle. Because the Act 25 amendments did not become effective until July 11, 2010, approximately 8 ½ months into the 24-month 2009-11 renewal cycle, the Board concluded that it should give licensees additional time to complete the requirements for the 2009-11 cycle. The Board has determined that for the first cycle with mandatory continuing education, licensees who make up the deficiency in full within the first 6 months will not be subject to a civil penalty. Accordingly, § 37.111(c) both provides that the continuing education requirements will first take effect during the October 1, 2009, through September 30, 2011, biennial renewal cycle and also that a licensee who, by April 1, 2012, makes up all the deficiency in continuing education will not be subject to disciplinary action for failing to complete the required continuing education by September 30, 2011. Because the Board will not renew the license where the licensee acknowledges not completing the required amount of continuing education, the Board normally would ask on the renewal form whether the licensee has completed the required amount of continuing education. Because the Board is extending the time period to complete the continuing education for the initial period, for the 2011-2013 renewal cycle the Board will ask whether the licensee has completed the required amount of continuing education or will complete it by April 1, 2012. This will not extend the time period to complete continuing education during the second renewal cycle; a total of 48 PDH must be completed between October 1, 2009, and September 30, 2013.

#### Fiscal Impact and Paperwork Requirements

The continuing education requirements of the act as added by Act 25 will require licensees to complete continuing education and maintain records, and will require the Board to audit licensees and take action where appropriate. Beyond the fiscal impact of the statutory requirements, the final-form rulemaking will have a minimal fiscal impact on the regulated community in the nature of administrative costs of records retention and audit compliance. The regulation will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

#### Effective date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

#### Statutory Authority

The final rulemaking is authorized by section 4(l) of the act (63 P.S. § 151.4(l)).



## Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 2218 (May 2, 2009), to IRRC and the chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC, the SCP/PLC and the public.

On September 3, 2010, the Board delivered 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 September 21, 2010, the final-form rulemaking was disapproved by the HPLC. On October 6, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 7, 2010, and disapproved the final-form rulemaking. As described in its disapproval order, IRRC disapproved the rulemaking primarily because it concluded that the Board does not have statutory authority to renew the license of a licensee who acknowledged failing to complete the required amount of continuing education, as previously intended.

In response to IRRC's disapproval, the Board revised the final-form rulemaking to remove the provisions for renewal despite failure to complete required continuing education, resulting in the form as discussed above. The Board did not otherwise revise the rulemaking in response to IRRC's disapproval order. The Board delivered the revised final-form rulemaking, together with the supporting report required by section 7(c) of the Regulatory Review Act (71 P.S. § 745.7(c)), to IRRC, the HPLC and the SCP/PLC on November 24, 2010. Under section 7(c.1) of the Regulatory Review Act (71 P.S. § 745.7(c.1)), IRRC met on December 16, 2010, and approved the final-form rulemaking. Under section 7(d) of the Regulatory Review Act (71 P.S. § 745.7(d)), the final-form rulemaking was deemed approved by the HPLC and by the SCP/PLC on February \_\_\_, 2011.

## Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Regulatory Unit Counsel, Department of State, by mail to P.O. Box 2649, Harrisburg, PA 17105-2649, by telephone at (717) 783-7049, or by e-mail at [st-engineer@state.pa.us](mailto:st-engineer@state.pa.us).

## 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) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 39 Pa.B. 2218.
- (4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Engineer, Land Surveyor and Geologist Registration Law.

Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board at 49 Pa. Code Chapter 37 are amended, by amending §§ 37.1 and 37.18 and by adding §§ 37.19 and 37.111, to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

Robert C. Grubic, PE, President  
State Registration Board for Professional Engineers,  
Land Surveyors and Geologists

**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:

\* \* \* \* \*

~~Hour of continuing education – Sixty minutes of actual instruction in an approved course of continuing education.~~

*OFFICE MANAGEMENT* – INCLUDES MECHANICAL OFFICE AND BUSINESS SKILLS, SUCH AS TYPING, SPEED WRITING, PREPARATION OF ADVERTISING COPY, DEVELOPMENT OF SALES PROMOTION DEVICES, WORD PROCESSING, CALCULATOR AND COMPUTER OPERATION, AND INTERNAL OPERATIONS AND PROCEDURES THAT DO NOT HAVE A PROFESSIONAL INTEREST. THIS TERM DOES NOT INCLUDE THE USE OF TECHNOLOGY IN DELIVERING ENGINEERING, LAND SURVEYING OR GEOLOGIC SERVICES.

~~Practice building – Marketing or any other activity that has as its primary purpose increasing the business volume or revenue of a licensee or employer and does not involve the practice of engineering, land surveying or geology as defined in section 2 of the act (63 P.S. §~~

149).

(i) The term includes “procuring or offering to procure land surveying work for himself THE LICENSEE or others; AND managing or conducting as managers, proprietors or agent any place of business from which land surveying work is solicited, performed, or practiced” as included in the definition of “practice of land surveying” in section 2(d) of the act. This terms includes procuring or offering to procure engineering or geologist GEOLOGIC work for himself THE LICENSEE or others; AND managing or conducting as managers, proprietors or agent any place of business from which engineering or geologist GEOLOGIC work is solicited, performed, or practiced.

(ii) The term does not include education in a professional area merely because it would expand the licensee’s skills enabling the licensee to practice in an additional area.

*PDH* - A PROFESSIONAL DEVELOPMENT HOUR, CONSISTING OF 50 MINUTES OF INSTRUCTION OR PRESENTATION RELEVANT TO PROFESSIONAL PRACTICE, AS DEFINED IN SECTION 2 OF THE ACT (63 P.S. § 149).

\* \* \* \* \*

**QUALIFICATIONS FOR LICENSURE**

**§ 37.17. Schedule of fees.**

\* \* \* \* \*

(c) *Other fees.* The Board will charge the following fees:

Application for continuing education course approval.....\$100

\* \* \* \* \*

**§ 37.18. Reactivation of licensure status.**

A licensed engineer, land surveyor or geologist who has allowed his licensure status to lapse by failing to register biennially with the Board may apply to the Board for reactivation of licensure status by satisfying the requirements of paragraph (1) on forms provided by the Board.

(1) A licensee applying for reactivation of licensure status is required to pay the current registration fee and submit a [notarized affidavit setting forth] reactivation application verifying the period of time in which the licensee did not practice in this Commonwealth. ~~An application for reactivation must also include the documentation required by § 37.112 (relating to reporting completion of continuing education) for those courses sufficient to satisfy the requirement for the immediately preceding biennium, and those courses may be completed during the current biennium.~~ Unless excused by the Board for good cause under section 4.5(e)(g) of the act (63 P.S. § 151.5(e)(g)), the Board will not reactivate any license until ~~the required continuing education for the preceding biennium~~ ALL DELINQUENT CONTINUING EDUCATION, NOT TO EXCEED 24 PDH, has been completed. NOTWITHSTANDING THE GENERAL REQUIREMENT OF § 37.111(b), AN APPLICANT FOR REACTIVATION OF AN INACTIVE LICENSE MAY COMPLETE THIS REQUIRED CONTINUING EDUCATION DURING THE BIENNIAL RENEWAL PERIOD FOR WHICH REACTIVATION IS SOUGHT. COMPLETION OF THIS PREVIOUSLY-DELINQUENT CONTINUING EDUCATION IS IN ADDITION TO THE CONTINUING EDUCATION REQUIRED FOR THE BIENNIUM DURING WHICH THE LICENSE IS REACTIVATED.

\* \* \* \* \*

**§ 37.19. Biennial renewal of licensure status.**

(a) A licensee shall register each biennial period to retain the right to practice in this Commonwealth. Initial registration shall automatically occur when a license is issued. Registration for a biennial period shall expire on September 30 of every odd numbered year.

(b) If a licensee changes the mailing address of record, the licensee shall notify the Board in writing within 10 days thereafter. Notice of renewal will be forwarded to the licensee's last known address on file with the Board. Failure of the Board to send or of the licensee to receive a biennial registration application does not relieve the licensee of the biennial registration responsibility.

(c) A licensee applying for biennial license renewal shall:

(1) Complete and submit the renewal application, including payment of the biennial renewal fee as set forth in § 37.17 (relating to schedule of fees).

(2) Disclose any license to practice engineering, land surveying or geology in another state, territory, possession, or country.

(3) Disclose any disciplinary action taken or pending before the appropriate licensing authority in any other jurisdiction since the most recent application for renewal. A licensee shall disclose disciplinary action in another jurisdiction whether or not the licensee holds an active license to practice in the other jurisdiction.

(4) Disclose any pending FELONY OR MISDEMEANOR criminal charges and any finding or verdict of guilt, admission of guilt, plea of *nolo contendere*, or other criminal conviction since the most recent application for renewal.

(5) Verify that the licensee has complied with the continuing education requirements mandated by section 4.5 of the act (63 P.S. § 151.5) during the biennial period immediately preceding the period for which renewal is sought in accordance with

~~§§ 37.111-37.115~~ § 37.111 (relating to continuing education) ~~or acknowledge that the licensee will be subject to the sanctions of § 37.111(d) (relating to credit hour requirements).~~

\* \* \* \* \*

### CONTINUING EDUCATION

#### § 37.111. Credit hour requirements CONTINUING EDUCATION.

(a) During each biennial renewal period, a licensee shall complete 24 hours PDH UNITS of continuing education. A licensee who holds more than one license from the Board shall complete the required hours AMOUNT of continuing education to renew each license. A licensee who completes a course CONTINUING EDUCATION ACTIVITY applicable to more than one class of license may apply the credit to each license held by the licensee for which the course is applicable. NO CONTINUING EDUCATION CREDIT WILL BE GIVEN FOR A COURSE IN PRACTICE BUILDING OR OFFICE MANAGEMENT.

(b) Except as necessary to comply with § 37.18(1) (relating to reactivation of licensure status), CARRIED OVER FROM THE PRIOR BIENNIUM AS PERMITTED BY SECTION 4.5(c) OF THE ACT (63 P.S. § 151.5(c)), TO CORRECT A DEFICIENCY as permitted REQUIRED by subsection (d), or as directed OTHERWISE ORDERED by the Board IN A DISCIPLINARY ACTION, continuing education may satisfy the requirement of subsection (a) only for the biennium during which it was completed. No hour of continuing education PDH UNIT may be used to satisfy the requirement of subsection (a) for more than one biennium. UNLESS OTHERWISE EXCUSED BY THE BOARD, CONTINUING EDUCATION COMPLETED IN ORDER TO REACTIVATE THE LICENSE AS PROVIDED IN § 37.18(1), TO CORRECT A DEFICIENCY AS REQUIRED IN SUBSECTION (d), OR AS

OTHERWISE ORDERED BY THE BOARD IN A DISCIPLINARY ACTION IS IN ADDITION TO THE CONTINUING EDUCATION REQUIREMENT FOR THE BIENNIUM DURING WHICH THAT ACTIVITY IS COMPLETED. A LICENSEE MAY NOT RECEIVE CREDIT FOR MORE THAN ONE PRESENTATION OF A PARTICULAR COURSE OR OTHER SPECIFIC ACTIVITY IN A GIVEN RENEWAL PERIOD.

(c) The requirement of subsection (a) will first take effect as follows:

(1) ~~During~~ DURING the October 1, 2009, through September 30, 2011, biennial renewal period, a licensee shall complete 24 hours of continuing education.

(2) ~~During each biennial renewal period subsequent to September 30, 2011, a licensee shall complete 24 hours of continuing education.~~ A LICENSEE WHO BY APRIL 1, 2012, CORRECTS ALL DEFICIENCIES IN CONTINUING EDUCATION DURING THE 2009-2011 RENEWAL CYCLE WILL HAVE NO DISCIPLINARY SANCTION IMPOSED AS PROVIDED IN SUBSECTION (d) FOR HAVING FAILED TO COMPLETE THE REQUIRED AMOUNT OF CONTINUING EDUCATION BY SEPTEMBER 30, 2011.

(d) Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 11(b) of the act (63 P.S. § 158(b)) in accordance with the schedule of civil penalties in § 43b.13a (relating to schedule of civil penalties – engineers, land surveyors and geologists). Within 6 months after the end of the renewal period for which ISSUANCE OF A CITATION UNDER § 43b.13a FOR FAILURE TO COMPLETE the required amount of continuing education was not completed, the licensee shall make up the deficiency and shall provide proof of the entire required amount of continuing education as set



~~forth in § 37.112 (relating to proof of continuing education)~~ SECTION 4.5(f) OF THE ACT (63 P.S. § 151.5(f)). ~~In addition to any civil penalty assessed under this subsection, failure TO COMPLETE THE REQUIRED AMOUNT OF CONTINUING EDUCATION AND to provide the Board with proof of COMPLETION OF the required amount of continuing education within 6 months after the beginning of a biennial period for which the licensee renewed without having completed~~ ISSUANCE OF A CITATION UNDER § 43b.13a FOR FAILURE TO COMPLETE ~~the required amount of continuing education shall subject the licensee to disciplinary action under section 4(g) of the act (63 P.S. § 151(g)). Failure to complete the required amount of continuing education within 6 months after the beginning of a biennial period for which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 4(g) of the act (63 P.S. § 151(g)).~~ THIS SUBSECTION DOES NOT APPLY TO A LICENSEE WHO PERMITTED THE LICENSE TO EXPIRE AT THE CONCLUSION OF THE BIENNIAL RENEWAL PERIOD FOR WHICH THE LICENSEE DID NOT COMPLETE THE REQUIRED AMOUNT OF CONTINUING EDUCATION AND DID NOT PRACTICE THE PROFESSION PRIOR TO REACTIVATING THAT LICENSE UNDER § 37.18(1) UPON A DEMONSTRATION THAT THE LICENSEE SUBSEQUENTLY COMPLETED ALL REQUIRED DEFICIENT CONTINUING EDUCATION.

(e) ~~A licensee seeking waiver of~~ EXEMPTION FROM ~~the continuing education requirements under~~ AS PROVIDED IN ~~section 4.5(e)(g)(1)(II) of the act (63 P.S. § 151.5(e))(g)(1)(II)~~ BASED UPON PHYSICAL DISABILITY, ILLNESS OR OTHER EXTENUATING CIRCUMSTANCES ~~shall submit the request with all supporting documentation to the Board at least 90 days prior to end of the renewal period for which waiver~~

~~is sought.~~ THE REQUEST MUST EXPLAIN WHY THE LICENSEE IS NOT ABLE TO COMPLETE MANDATORY CONTINUING EDUCATION ON TIME AND WHY EXEMPTING THE LICENSEE WILL NOT HARM THE PUBLIC INTEREST. THE BOARD MAY TAKE UP TO 90 DAYS TO RULE UPON A REQUEST FOR EXEMPTION. Waiver EXEMPTION may include extending the deadline by which the required continuing education must be completed. THE BOARD WILL CONSIDER A REQUEST FOR EXEMPTION FROM A LICENSEE WHO HAS RENEWED THE LICENSE, BUT A REQUEST FOR EXEMPTION MAY NOT BE USED TO AVOID A DISCIPLINARY SANCTION UNDER SUBSECTION (d).

(F) THE BOARD WILL AUDIT LICENSEES TO VERIFY COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENTS. A LICENSEE WHO IS BEING AUDITED SHALL FULLY RESPOND TO EACH REQUEST FOR INFORMATION WITHIN 30 DAYS OF THE REQUEST OR OTHER TIME SPECIFIED IN THE REQUEST.

(G) EACH LICENSEE SHALL MAINTAIN RECORDS VERIFYING COMPLETION OF CONTINUING EDUCATION FOR 5 YEARS AFTER COMPLETION OF THE ACTIVITY. IN ANY AUDIT OR DISCIPLINARY PROCEEDING, THE BOARD MAY INFER FROM A LICENSEE'S FAILURE TO MAINTAIN RECORDS AS PROVIDED IN THIS SUBSECTION THAT THE LICENSEE DID NOT COMPLETE THE REQUIRED CONTINUING EDUCATION.

**§ 37.112. Reporting completion of continuing education.**

~~(a) Proof of completion of a course of continuing education shall consist of a certified continuing education record issued by the course provider, including:~~

~~(1) The name of the participant.~~

- ~~(2) — The name of the provider.~~
- ~~(3) — The date or dates of the course.~~
- ~~(4) — The name and any Board issued approval number of the course.~~
- ~~(5) — The number of hours of continuing education or academic credit.~~

~~(b) — A licensee shall retain proof of completion of continuing education for 5 years after completion of the continuing education or after the completion of the renewal period during which the continuing education was required, whichever is later.~~

~~(c) — The Board will audit licensees to verify compliance with continuing education requirements.~~

**§ 37.113. Credit for approved continuing education.**

~~(a) — Credit for continuing education will be granted only for courses exempt from approval under § 37.114(a) or approved by the Board pursuant to § 37.114(b).~~

~~(b) — Unless limited by this section, continuing education credit may be earned in a course on any subject matter falling within the definitions of the practice of engineering, land surveying or geology in section 2 of the act (63 P.S. § 149), as appropriate to the license. Continuing education credit may not be earned in any course in practice building or office management.~~

~~(c) — A licensee may not receive credit for more than one presentation of a particular course in a given renewal period.~~

~~(d) — A licensee teaching a course of continuing education may receive the same credit that a licensee attending the course would receive and may also receive credit for time spent in preparation. Credit for time spent in preparation may not exceed the credit available for a licensee attending the course.~~

~~(e) No continuing education credit may be received for authoring an article, participating in a professional society or obtaining a patent.~~

**§ 37.114. Approval of continuing education courses.**

~~(a) The following continuing education courses, provided they otherwise meet the requirements of § 37.113 (relating to credit for approved continuing education) and the course provider issues to each attending licensee a certified continuing education record in accordance with § 37.112(a), are exempt from the approval requirement:~~

~~(1) A junior/senior or above level course offered as part of a program that satisfies the educational requirements for licensure under §§ 37.31(1)(i) or (ii), 37.36(1), or 37.47(1)(i) or (ii) (relating to eligibility for certification or licensure, or both; eligibility for licensure; and eligibility for certification or licensure, or both).~~

~~(2) A graduate course offered as part of an engineering, land surveying or geology program of an accredited college or university.~~

~~(3) A course offered by an accredited college or university that offers a program that satisfies the educational requirements for licensure under §§ 37.31(1)(i) or (ii), 37.36(1), or 37.47(1)(i) or (ii) that is designed for continuing education and not for the educational program required for licensure.~~

~~(4) A course offered by a provider certified by an organization approved by the US Department of Education to certify providers of continuing education.~~

~~(5) A course offered or approved by a professional licensing authority or National organization of professional licensing authorities or affiliate.~~

~~(6) A course offered by an agency of the United States government.~~

~~(7) A course offered by an agency of the government of a state or territory of~~

~~the United States or the District of Columbia.~~

~~(8) A course offered by a National professional society or affiliate or subsidiary.~~

~~(9) A course offered by a Statewide professional society or affiliate or subsidiary.~~

~~(10) Any course concerning the standards it sets by an association or other organization or its affiliate or subsidiary that is recognized in its field to set standards for design, construction, or other aspect of professional practice.~~

~~(b) The following continuing education courses are approved:~~

~~(1) A course approved by the Board under § 37.115(a) (f) (relating to approval of continuing education courses upon application) upon application of the provider.~~

~~(2) A course approved by the Board under § 37.115(g) upon application of an attending licensee.~~

**§ 37.115. Approval of continuing education courses upon application.**

~~(a) A provider of continuing education other than those in § 37.114(a) (relating to approval of continuing education courses) seeking approval of a course of continuing education shall apply for approval on forms provided by the Board and shall fully provide all information required by those application forms for the Board to fulfill its duties under this section. The application shall be submitted to the Board with payment of the fee as required in § 37.17 (relating to fees).~~

~~(b) A provider shall apply for approval of each course of continuing education, which may include multiple presentations of the course at various locations and multiple offerings of~~

~~the course. Prior to making any significant change in course content or using an instructor or instructors other than those described in the provider's approved continuing education application, the provider shall obtain approval from the Board for the proposed changes. If the location is essential to presentation of the course content, any change in location constitutes a change in the course, and approval must again be sought from the Board.~~

~~(e) The Board may deny approval of a course of continuing education where the provider has previously failed or is not currently able to comply with the provider responsibilities of subsection (f) or the course does not qualify under § 37.113 (relating to credit for approved continuing education). The Board may approve in part and deny in part an application for approval of a course. The Board may deny an application for course approval that does not comply with the act or this chapter.~~

~~(d) The Board may terminate its prior approval of a course of continuing education when the applicant made one or more false or misleading material statements on the application. The Board may also terminate in part or in whole its prior approval of a course when it is later determined that the Board has grounds to deny approval in accordance with this section. Termination of approval will not forfeit credit for a course completed prior to termination of approval.~~

~~(e) For each course of continuing education, the provider shall:~~

~~(1) Disclose in advance to prospective attendees the objectives, content, teaching method and the number of hours of continuing education credit approved by the Board.~~

~~(2) Provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used.~~

~~(3) Provide accurate instructional materials.~~

~~(4) Utilize qualified instructors who are knowledgeable in the subject matter.~~

~~(5) Evaluate the program through the use of questionnaires of the participants and instructors.~~

~~(6) Issue a certified continuing education record to each participant.~~

~~(7) Retain attendance records, written outlines, and a summary of evaluations for 5 years.~~

~~(f) The Board will maintain a list of approved courses in a form accessible to licensees and the public.~~

~~(g) If a course is not exempt from approval under § 37.114(a) and the provider has not separately sought approval under subsections (a) (f), a licensee attending the course may apply for approval of a course of continuing education as set forth in subsection (a). An attendee may seek approval after completion of the course, though the Board may deny approval as otherwise provided in this subchapter. The Board may waive the requirements of subsections (b) and (c) where a licensee attending a course applies for approval. The Board will not collect more than one fee from attendees for review of applications for approval of the same course.~~



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS,  
LAND SURVEYORS AND GEOLOGISTS  
P.O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 783-7049

November 24, 2010

The Honorable Arthur Coccodrilli, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harrisstown 2, 333 Market Street  
Harrisburg, PA 17101

Re: Final Regulation  
State Registration Board for Professional Engineers, Land  
Surveyors and Geologists  
16A-4710: Continuing Education

Dear Chairman Coccodrilli:

Enclosed are the final rulemaking and the report of the State Registration Board for Professional Engineers, Land Surveyors and Geologists prepared in accordance with section 7(c) of the Regulatory Review Act, 71 P.S. § 745.7(c), following disapproval of the final form regulation by the Independent Regulatory Review Commission. The Board has revised the final form regulation and resubmits the rulemaking for approval in accordance with the Regulatory Review Act.

Sincerely

A handwritten signature in black ink, appearing to read "Robert C. Grubic".

Robert C. Grubic, PE, President  
State Registration Board for Professional Engineers,  
Land Surveyors and Geologists

RCG/TAB:rs

Enclosure

cc: Basil L. Merenda, Commissioner  
Bureau of Professional and Occupational Affairs  
Steven V. Turner, Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Thomas A. Blackburn, Counsel  
State Registration Board for Professional Engineers, Land Surveyors and Geologists  
State Registration Board for Professional Engineers, Land Surveyors and Geologists



TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

I.D. NUMBER: 16A-4710  
SUBJECT: CONTINUING EDUCATION  
AGENCY: DEPARTMENT OF STATE  
STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS,  
ALAND SURVEYORS AND GEOLOGISTS

**TYPE OF REGULATION**

- Proposed Regulation
- X Final Regulation
- 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

RECEIVED  
IRRC  
2010 NOV 24 A 10:12

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
<u>11/24/10</u>	<u><i>Michael P. McGeehan</i></u>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
<u>11/24/10</u>	<u><i>Mary Walmer</i></u>	SENATE COMMITTEE ON CONSUMER PROTECTION AND PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
<u>11/24/10</u>	<u><i>K. Cooper</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only) LEGISLATIVE REFERENCE BUREAU (for Proposed only)