

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;">(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p style="margin: 0;"><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p style="margin: 0; font-size: 2em; font-weight: bold;">RECEIVED</p> <p style="margin: 5px 0 0 0;">APR 6 2021</p> <p style="margin: 0; font-size: 0.8em;">Independent Regulatory Review Commission</p> </div>
<p>(1) Agency  <b>Department of State, Bureau of Professional and Occupational Affairs, State Registration Board for Professional Engineers, Land Surveyors and Geologists</b></p>		<p>IRRC Number: <span style="font-size: 1.5em; margin-left: 20px;">3300</span></p>
<p>(2) Agency Number: 16A                  Identification Number: 4715</p>		
<p>(3) PA Code Cite:  <b>49 Pa. Code §§ 37.1, 37.20-37.20a</b></p>		
<p>(4) Short Title:  <b>Licensure by Endorsement</b></p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: <b>C. William Fritz, II, Board Counsel, State Registration Board for Professional Engineers, Land Surveyors and Geologists, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) (chfritz@pa.gov).</b></p> <p>Secondary Contact: <b>Jacqueline A. Wolfgang, Senior Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) jawolfgang@pa.gov.</b></p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> FINAL REGULATION</p> <p><input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p><b>The act of July 1, 2019 (P.L. 292, No.41) (Act 41 of 2019) requires the State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) to issue a license, certificate, registration or permit to an applicant to allow practice provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency by methods determined by the Board; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the</b></p>		

jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, Act 41 of 2019 authorizes boards and commissions to issue a provisional license, certificate, registration, or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. This rulemaking effectuates Act 41 of 2019.

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

Act 41 of 2019 amended the act of July 2, 1993 (P.L. 345, No. 48) (63 P.S. § 2206.1) by adding section 6.1 (relating to licensure by endorsement) to require licensing boards and commissions to issue a license, certificate, registration or permit to an applicant, who pays fees established by the Board by regulation, provided the applicant meets certain criteria for eligibility. Act 41 of 2019 also requires boards and commissions that issue provisional licenses, certificates, registration or permits to set the expiration of the provisional endorsement license by regulation.

On July 1, 2020, Act 41 was recodified and consolidated by Act 53 of 2020 (P.L. 545, No. 53) in Title 63 of the Pennsylvania Consolidated Statutes at 63 Pa. C. S. § 3111.

Subsection 4(l) of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P.S. § 151(l)) authorizes the Board to adopt and promulgate administrative rules and regulations, not inconsistent with the act, as are deemed necessary and proper by the Board to carry into effect the powers conferred by the act.

(9) 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.

63 Pa. C.S. § 3111(a)(5) requires the Board to set the fee to be charged by regulation and 63 Pa. C.S. § 3111(b)(2) requires the Board to set an expiration of the provisional endorsement license by regulation. Otherwise, it is not mandated by any Federal or state law or court order, or Federal regulation.

(10) 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 regulation is needed to implement 63 Pa. C.S. § 3111 to provide for licensure by endorsement to applicants from other states, territories and countries. Act 41 of 2019 was enacted due to a recognition that licensed professionals from other jurisdictions have difficulty obtaining a license to practice in this Commonwealth. 63 Pa. C.S. § 3111 eliminates unnecessary barriers to licensure for citizens from other jurisdictions and for military personnel and their spouses while maintaining sufficient safeguards to ensure public protection. 63 Pa. C.S. § 3111 enables boards and commissions under the Bureau of Professional and Occupational Affairs (Bureau) to issue a license by endorsement, and further provides for a provisional endorsement license to quickly move these professionals into the workforce without unnecessary delays, which reduces the barriers to employment.

Since the effective date of Act 41 of 2019 (August 30, 2019), the Board has received and considered four applications. Of the four applications, the Board has issued four licenses. Based upon the number of applications received, the Board estimates receiving 10 applications on an annual basis.

(11) 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.

**There are no federal standards applicable to the subject matter of the regulation.**

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

**This regulation will not adversely affect Pennsylvania's ability to compete with other states. The purpose of 63 Pa. C.S. § 3111 is to make it easier for out-of-state applicants, including military spouses, who have an out-of-state professional or occupational license to work in Pennsylvania. The purpose of 63 Pa. C.S. § 3111 is to reduce barriers to employment, which will make Pennsylvania more competitive. 63 Pa. C.S. § 3111 and the Board's proposed regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy. Surrounding states also have similar laws and regulations for licensure by endorsement in the professional engineer, land surveyor and geologist fields.**

**In comparing the proposed regulation to other states, the Board researched states in the Northeastern region of the United States. The Board identified only one other State (New Jersey) that has a comprehensive license by endorsement law that is applicable to the various professional licensing boards in New Jersey. Like 63 Pa. C.S. § 3111, New Jersey requires its professional licensing boards to issue a license to any person who holds a current professional or occupational license in good standing whose licensure standards are substantially equivalent to the current standards of New Jersey. Unlike 63 Pa. C.S. § 3111, New Jersey does not require applicants to demonstrate competency and does not provide discretion to issue a discretionary provisional license. While Pennsylvania's competency requirements may be more stringent than New Jersey, demonstration of competency is statutorily required under 63 Pa. C.S. § 3111. Moreover, for the most part, other states require similar continuing education for renewal; therefore, for the most part, showing competency will not negatively impact Pennsylvania's ability to compete.**

**The Board also researched whether other professional engineer, land surveyor and/or geologist state boards have similar licensure by endorsement laws and regulations applicable to the professional engineer, land surveyor and geologist professions. For those states that have similar licensure by endorsement laws and regulations applicable to the professional engineer, land surveyor and geologist professions, the Board compared the following criteria: eligibility requirements (substantial equivalence or other standard); competency methods; and provisional licenses, including expiration of the provisional license.**

**Ohio:**

**The Ohio State Board of Registration for Professional Engineers does not have authority to grant licensure by endorsement; however, under its reciprocity provision, it will grant a license to a person**

registered or licensed to engage in the practice of engineering or surveying by a proper authority of a state, territory, or possession of the United States, or the District of Columbia, who meets the requirements for registration. In addition, applicants must pay the established fee and must pass a two-hour professional practice examination, devoted to the laws and practices of Ohio prior to receiving such registration. Ohio law also allows a registered engineer or surveyor of another state to practice temporarily in Ohio until permanent registration is granted. It is conditioned on the provisions that such person is legally qualified by registration to practice the profession in the applicant's own state or U.S. territory and that the qualifications under which the applicant obtained registration in the other state or territory meet the requirements of as set forth in Ohio by all applicants.

The State of Ohio does not license professional geologists.

### **West Virginia:**

In West Virginia, the West Virginia Board of Registration of Professional Engineers may issue a license to practice surveying to an applicant of good moral character who holds a valid license to practice surveying from another state whose education, experience and examination requirements are substantially equivalent to those required by West Virginia. It must also be demonstrated that the applicant is not currently being investigated by a disciplinary authority of another state, does not have charges pending against his or her license or other authorization to practice surveying and has never had a license or other authorization to practice surveying revoked; has not previously failed an examination for licensure in this state; has paid all the applicable fees; and has completed such other action as required by the board.

For engineering, the West Virginia Board of Registration of Professional Engineers may issue a license to an individual who holds a valid license in another state if the applicant holds a license or other authorization to engage in the practice of engineering issued by a proper authority of any jurisdiction, based on requirements that do not conflict with the provisions of this article and possesses credentials that are, in the judgment of the board, of a standard equivalent to or not lower than that specified in the applicable licensure act and rules in effect in this state at the time such license was issued, upon application, which may include a council record with the National Council of Examiners for Engineering and Surveying (NCEES); or holds a valid council record with NCEES, which is the compilation of documents maintained by NCEES of an applicant's qualifications as a professional engineer, including official transcripts, engineering examination results, employment verifications and references, which indicates that the applicant meets the requirements under the West Virginia law.

The State of West Virginia does not license professional geologists.

### **Maryland:**

The Maryland Board for Professional Engineers does not have authority to grant licensure by endorsement but may issue a license by reciprocity to practice engineering in Maryland provided that at the time the applicant was license by the other state, territory or foreign country, the licensure requirements were equivalent to those required by Maryland.

**For land surveyor applicants, the Maryland Board for Professional Land Surveyors may waive any examination requirement if the applicant is of good character and reputation; pays to the Board a nonrefundable application fee and the license fee set by the Board; and provides adequate evidence that, at the time the applicant was licensed by the other state, the applicant met requirements that were equivalent to those then required by the laws of Maryland.**

**The State of Maryland does not license professional geologists and does not offer provisional licenses to professional engineers or land surveyors.**

### **Delaware:**

**In Delaware, the Delaware Professional Engineering Licensing Board may issue a license as a professional engineer to any person holding a valid certificate of registration or a license as a professional engineer issued to that person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or a province or territory of Canada, provided the professional engineering qualifications of the applicant on the effective date of such certificate of registration or a license would have satisfied the requirements for licensure in Delaware; the professional engineering qualifications of the applicant at any time subsequent to the effective date of such certificate of registration or a license would have satisfied the requirements for licensure in Delaware; the professional engineering qualifications of the applicant include successful passing of an examination approved by the Council and having a minimum of 10 years of professional experience work of a character satisfactory to the Council, with at least 8 years of the applicant's experience obtained after the applicant received the said valid certificate of registration or a license; or the professional engineering qualifications of the applicant include a minimum of 10 years of continuous and verifiable experience as a professional engineer and must not have been subject to disciplinary action in the current or previous licensing jurisdictions. A person holding a valid NCEES Council Record may be registered in Delaware as a professional engineer upon receipt from NCEES of a certified copy of such record.**

**For land surveyors, the Delaware Board of Professional Land Surveyors will grant a license by reciprocity to each applicant who presents proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially similar to those of this State and that applicant's license is in good standing and has achieved a passing score on a 2-hour written examination on drainage and the Delaware law. An applicant who is licensed or registered in a state whose standards are not substantially similar to those in Delaware must have practiced for a minimum of 5 years after licensure; provided, however, that the applicant meets all other qualifications for reciprocity in this section. All states that are contiguous to Delaware are considered to have "substantially similar" standards to the Delaware standards.**

**For geologists, Delaware Board of Geologists will grant a license by reciprocity to each applicant who presents proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially similar to those of this Delaware and that applicant's license is in good standing, has at least two years of experience as a licensed professional geologist and passed the ASBOG examinations. If an applicant does not meet all of these criteria, they must apply for licensure by examination. Delaware does not offer a provisional license.**

### **Massachusetts:**

**As minimum evidence satisfactory to the Massachusetts Board of Registration of Professional Engineers and Land Surveyors that an applicant to practice as a professional engineer or land surveyor holding a certificate or registration to engage in the practice of engineering, issued to him by a proper authority of a state, commonwealth, territory, or possession of the United States, the District of Columbia, or any foreign country is qualified for registration as a professional engineer or professional land surveyor, the applicant must meet the requirements of the current licensure requirements of the Massachusetts Board. A person holding a certificate of qualification issued by the National Council of Engineering Examiners, whose qualifications meet the requirements of this chapter, may, upon application, be registered without further examination.**

**For professional land surveyors, the Massachusetts Board of Registration of Professional Engineers and Land Surveyors may require such examinations as the board may determine to be necessary and shall be required to pass the required written examination of not less than four hours' duration, which shall include questions on laws, procedures and practices pertaining to practice in Massachusetts.**

**The State of Massachusetts does not license professional geologists.**

### **Rhode Island:**

**In Rhode Island, applicants for professional engineering licensure with the State Board of Registration for Professional Engineers shall be qualified for licensure if they hold a current certificate of registration to engage in the practice of engineering, on the basis of comparable written examinations, issued to him or her by either a proper authority of a state, territory, or possession of the United States, the District of Columbia, or of any foreign country, and whose qualifications meets the requirements of this chapter, based on verified evidence may, upon application, be registered without further examination. A person holding a certificate of qualification issued by NCEES may be registered without further examination, provided he or she is qualified. A professional engineer applying for licensure by endorsement without further examination must provide evidence of registration in good standing by comparable written examination in another State, territory or possession of the United States, the District of Columbia, or of any foreign country and/or a certificate of qualification from the NCEES showing the applicant to have qualifications meeting the requirements of Rhode Island. Rhode Island does not offer a provisional license.**

**In Rhode Island, applicants for professional land surveying licensure with the State Board of Registration for Land Surveyors shall meet the existing Rhode Island requirements for licensure. All applicants must have passed the written examinations in the fundamentals of land surveying and the principles and practice of land surveying. If, based upon verified evidence and the opinion of the board, the applicant meets all appropriate examination requirements, the applicant will be allowed to take the Rhode Island legal portion. Upon passing this examination, the applicant shall be granted a certificate of registration to practice land surveying in Rhode Island.**

**The State of Rhode Island does not license professional geologists.**

## **Connecticut:**

**In Connecticut, the State Board of Examiners for Professional Engineers and Land Surveyors does not have authority to grant licensure by endorsement but may do so if the requirements for reciprocity are met. Under reciprocity provisions, the board may issue a license by reciprocity as a professional engineer; or a combined license as a professional engineer and land surveyor or issue a license as a land surveyor to any person who holds a certificate of qualification, licensure or registration issued to such person by the proper authority of any state, territory or possession of the United States, or any country, or the National Bureau of Engineering Registration, provided the requirements for the licensure or registration of professional engineers or land surveyors under which such license, certificate of qualification or registration was issued shall not be of a standard lower than that required in Connecticut.**

**The State Board of Examiners for Professional Engineers and Land Surveyors may waive the first part of the examination in the case of an applicant for licensure as a professional engineer who holds a certificate as an engineer-in-training issued to him by the proper authority of any state, territory or possession of the United States, provided the requirements under which the certificate was issued do not conflict with the provisions as required in Connecticut and are of a standard at least equal to that required in Connecticut. The State Board of Examiners for Professional Engineers and Land Surveyors may waive that part of the examination relating to the fundamentals of land surveying, in the case of an applicant for licensure as a land surveyor who holds a certificate as a surveyor-in-training issued to him by the proper authority of any state, territory or possession of the United States, provided the requirements under which the certificate was issued do not conflict with the provisions required in Connecticut and are of a standard at least equal to that required in Connecticut. Upon request of any such applicant the State Board of Examiners for Professional Engineers and Land Surveyors may, if it determines that the application is in apparent good order, authorize the department to grant to such applicant permission in writing to practice engineering or land surveying or both for a specified period of time while such application is pending.**

**In Connecticut, the Department of Energy & Environmental Protection regulates the licensure of professional geologists, which falls under the umbrella of Licensed Environmental Professional. Geologist applicants must pass a written exam, or a written and oral exam, prescribed by the Department of Energy & Environmental Protection which shall test the applicant's knowledge of the physical and environmental sciences applicable to an investigation of a polluted site and remediation.**

**The State of Connecticut does not offer provisional licenses.**

## **New Hampshire:**

**In New Hampshire, professional engineer applicants to the Board of Professional Engineers who hold a license in any state, territory or possession of the United States may be granted a license provided the licensure requirements are substantially equal to or more stringent than New Hampshire.**

**Professional geologist applicants to the Board of Professional Geologists who hold a license in any state, territory or possession of the United States may be granted a license provided the licensure requirements are substantially equal to or more stringent than New Hampshire.**

**Professional land surveyor applicants to the Board of Professional Land Surveyors may be issued a license to any person of any state, territory or possession of the United States or of any country provided that the applicant is registered or licensed in another state, territory, possession or country whose requirements are equal to, or greater than, the requirements of New Hampshire.**

**Vermont:**

**In Vermont, the Board of Professional Engineering and Board of Land Surveyors do not offer licensure through either reciprocity, endorsement or provisionally without first taking the examination. The boards may issue an engineer or land surveyor license to an applicant who is licensed or registered and currently in good standing in a United States or Canadian jurisdiction having licensing requirements which are substantially equivalent to the requirements of Vermont. The absence of a portfolio requirement in another jurisdiction does not prevent the Vermont Board from finding substantial equivalence.**

**Vermont does not require Professional Geologist licensure.**

**Maine:**

**In Maine, applicants to the State Board of Licensure for Professional Engineers must provide minimum evidence satisfactory to the Maine board that an applicant is qualified for licensure as a professional engineer, including proof that the applicant is a licensed professional engineer, in good standing, in another state, territory or possession of the United States, District of Columbia or any foreign country and whose qualifications meet the requirements Maine. To seek licensure without examination, the applicant must be a graduate of an engineering curriculum approved by the engineering accreditation commission or of an equivalent engineering curriculum and have not less than four years of acceptable engineering experience after graduation and have been licensed by passing the national council principles and practice of engineering examination and the fundamentals of engineering examination. A person holding an active NCEES record whose qualifications meet the requirements Maine upon application may be licensed without further examination.**

**In Maine, professional land surveyor applicants to the Department of Professional & Financial Regulation must be in good standing must show satisfactory evidence that the applicant has met all of the qualifications for licensure equivalent to Maine, but the applicant may be required to take examinations if necessary to determine the applicant's qualifications.**

**The State Board of Licensure of Geologists and Soil Scientists, in its discretion and upon payment of the application and license fees, may issue a license as a geologist or soil scientist without written examination to any person who is licensed as a geologist or soil scientist in any jurisdiction having equivalent licensure requirements.**

**Maine does not offer provisional licenses.**

**New York:**

**In New York, the Office of Professions, Professional Engineering, Land Surveying and Geology may license an applicant who meets all requirements for licensure in New York State, except examination and has been issued a license or certificate to practice professional engineering, land surveying or professional geology issued to him or her upon written examination by a legally constituted board of examiners in any other state or political subdivision of the United States, provided that the examination for such license or certificate was the equivalent of the examination required in this State at the time it was issued.**

**New York does not offer provisional licenses.**

**Based on this research relating to other states' licensure by endorsement and/or reciprocity requirements, the Board believes the amendments will not put Pennsylvania at a competitive disadvantage. Pennsylvania statutorily requires other jurisdictions' licensing requirements to be substantially equivalent whereas many of the neighboring states require equivalency. This statutory requirement puts Pennsylvania at a competitive advantage because its licensing requirements will reduce barriers to licensure, which will make Pennsylvania more competitive. Regarding competency requirements, Pennsylvania has a competency requirement whereas other states do not. While this may make Pennsylvania more stringent than other states, demonstration of competency is statutorily required under 63 Pa. C.S. § 3111. Moreover, with regard to the continuing education competency method, most states require continuing education for renewal; therefore, for the most part, showing competency will not negatively impact Pennsylvania's ability to compete. The proposed rulemaking will place Pennsylvania on an even playing field with those states that permit provisional or temporary licenses, certificates, registrations, or permits by allowing Pennsylvania applicants the similar opportunity to obtain a temporary license prior to issuance of a full license. This regulation will also give Pennsylvania an advantage as being more competitive within the industry as compared to those states that do not permit provisional licenses.**

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

**This rulemaking does not affect other regulations of the Board or other state agencies.**

**(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)**

**In drafting the proposal, the Board solicited comments from stakeholders and interested parties in August of 2020. The Board received one comment from an interested party. The professional licensee expressed concern that the proposed rulemaking would allow a 3<sup>rd</sup> year Engineer-In-Training (EIT) to qualify for a provisional professional engineer license and would be permitted to practice as a PE. The Board discussed the licensee's concern and noted that he was referencing an EIT already practicing in Pennsylvania under the restrictions set forth in the act, and that the proposed rulemaking only applies to those practicing outside of Pennsylvania wishing to become licensed in Pennsylvania.**

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

**For purposes of this rulemaking, the Board estimates that approximately 10 individuals will apply for licensure by endorsement on an annual basis.**

**According to the Pennsylvania Department of Labor and Industry (L&I), in 2016, of the professional engineers employed in Pennsylvania, approximately 303,500 of those were civil engineers. Of the civil engineers, in 2016, the majority worked in architectural and engineering services (48%), while a minority of civil engineers worked in Federal or State government (15%), Local government (10%), and nonresidential building construction (6%). Other engineers worked in scientific research and development services, utility system construction, power generation and supply, other heavy construction and rail transportation.**

**L&I classifies professional geologists as geoscientists, and in 2016, geoscientists worked in Federal or State government (14%); architectural and engineering services (26%); mining, quarrying and oil and gas extraction (24%); or for colleges, universities and professional schools (6.0%). About 30% of geoscientists were employed in Texas in 2016, because of the prominence of oil and gas activities in that state.**

**For land surveyors, L&I states that in 2016, surveyors worked in architectural and engineering services (71%); government (11%); nonresidential building construction (8%); mining, quarrying and oil and gas extraction (2%) or were self-employed (2%).**

**Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where most professional engineers, geologists and land surveyors work, a small business in the categories of engineering services, geophysical surveying and mapping services, and surveying and mapping (except for geophysical services), all have \$15.0 million or less in average annual receipts. Furthermore, the professionals who are self-employed obviously work in small businesses. The NAICS codes do not include professionals who work in Federal, State and local governments. In considering all of these small business thresholds set by NAICS for the businesses in which professional engineers, land surveyors and geologists work, it is probable that most of the licensed professional engineers, land surveyors and geologists work in small businesses.**

**According to the Small Business Administration (SBA), there are approximately 1,041,905 businesses in Pennsylvania; of which 1,037,737 are small businesses. Of the 1,037,737 small businesses, 225,847 are small employers (those with fewer than 500 employees) and the remaining 811,890 are non-employers. Thus, based upon the variety of employers as discussed above, in addition to the fact that the vast majority of businesses in Pennsylvania are considered small businesses, the Board believes that most engineers, geologist and land surveyors are employed by small businesses.**

**This rulemaking only affects individuals who apply for licensure by endorsement. These individuals would be impacted by the \$50 fee to apply for licensure by endorsement, which is the same fee currently charged by the Board for those applying for licensure. Whether small businesses will be**

impacted by the regulations depends on whether the businesses would pay the application fee for licensure by endorsement and whether employers voluntarily pay the costs of completing competency requirements, which may include completion of continuing education. Because the application fees are incurred by individuals applying for initial licensure by endorsement, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

**This rulemaking will affect applicants for licensure by endorsement as professional engineers, land surveyors and geologists. The Board estimates an average of 10 licensure by endorsement applications a year for these professions. Small businesses will only be impacted to the extent they voluntarily pay licensure fees and other costs for applicants.**

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

**The Commonwealth will benefit by licensure by endorsement under 63 Pa. C.S. § 3111. The purpose of 63 Pa. C.S. § 3111 is to make it easier for out-of-state applicants, including military spouses, who have an out-of-state professional or occupational license to work in Pennsylvania. The purpose of 63 Pa. C.S. § 3111 is to reduce barriers to employment, which will make Pennsylvania more competitive. 63 Pa. C.S. § 3111 and the Board's regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.**

**The citizens of the Commonwealth will also benefit from the enhanced workforce and growth in economy while still having assurance of a level of competence similar to existing licensees in this Commonwealth. The Board has selected methods of competence, including completion of professional development hours (continuing education). These methods assure competency because it ensures that each applicant has remained current with any technological advancements or other updates within the profession.**

**The financial impact of the regulation falls primarily on the applicants and the Board. Individuals seeking licensure by endorsement will incur costs associated with qualifying for and obtaining a license. As noted above, an applicant applying for licensure by endorsement under 63 Pa. C.S. § 3111 would be required to pay the \$50 application fee, which covers the costs of processing the application. This application fee is the same for other applicants applying for licensure by endorsement fee authorized by § 37.17. For foreign applicants, if the other law, regulation or other rule is in a language other than English, § 37.20(a)(1)(ii) would require the applicant to have it professionally translated at the applicant's expense. To the extent that an applicant must complete continuing education to prove competency, an applicant may incur those costs to obtain continuing education credits. The Board has been accepting and processing Act 41 applications for over a year. The Board has not yet received any Act 41 applications from foreign applicants.**

**The average cost for current licensees to complete 24 hours of continuing education courses as a condition to biennial licensure renewal is between \$10 to \$50 per credit, or approximately \$240-\$1,200 per biennium. Therefore, an applicant who demonstrates competency through the**

completion of continuing education courses may incur a small fee for doing so. However, the requirement to prove competency is a statutory requirement and the continuing education competency method chosen by the Board is specifically authorized by 63 Pa. C.S. § 3111. In addition, the requirement that an applicant complete 24 hours of continuing education during the 24 months immediately preceding the date of application, if the applicant has not actively engaged in the practice of professional engineering, land surveying and/or geology for two of the last five years, is no different than the existing continuing education requirement for all licensees.

The positive impact for the applicants is that 63 Pa. C.S. § 3111 and the proposed regulation provides a new pathway to licensure that did not previously exist.

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

As previously discussed, 63 Pa. C.S. § 3111 benefits this Commonwealth and its citizens and individual applicants wishing to obtain licensure. The costs associated with obtaining licensure are outweighed by the need of the Board to set fees to cover its costs for processing applications to maintain the fiscal integrity of the Board, and by the equity of assessing the costs of processing applications to the applicants themselves, as opposed to the existing licensee population bearing these costs through increased biennial renewal fees. The General Assembly contemplated and weighed the impact of imposing fees on applicants in 63 Pa. C.S. § 3111(a)(5) against the benefits of providing an additional pathway to licensure to individuals from other jurisdictions. While avoiding economic impact to applicants is always preferable, the General Assembly recognized that boards fees are necessary in order to pay for the costs associated with the filing of applications.

Regarding the cost of translating the law, regulation or other rule to English, this is a necessary part of the application process. If the Board is unable to understand the other jurisdiction's requirements, it will not be able to determine whether those requirements are substantially equivalent.

Additionally, there may be additional costs associated with any continuing education requirements placed upon the applicant by the Board. Regarding costs associated with demonstrating competency, the Board is authorized to select the appropriate method of competency under 63 Pa. C.S. § 3111(a)(2) and has provided applicants with two alternatives. Applicants who demonstrate competency through experience in the practice of professional engineering, land surveying or geology for at least 2 of the 5 years immediately preceding the date of application in the jurisdiction that issued the license will incur no costs to demonstrate competency. Applicants who demonstrate competency by completing 24 hours of continuing education courses during the 24 months immediately preceding the date of their application, will incur minimal costs to complete necessary continuing education.

Additionally, any costs incurred due to the competency requirement outweighs the benefit of this proposed regulation as it will ensure that the applicant is safe to practice the profession and will not present a danger to the public.

(19) 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.

An individual applying for licensure by endorsement under 63 Pa. C.S. § 3111 will incur some costs, including paying the \$50 application fee and any costs associated with demonstrating competency through continuing education courses, which ranges from \$10-\$50 per credit hour. Since the effective date of 63 Pa. C.S. § 3111, the Board has received four Act 41 applications. During this period, the total costs incurred for application fees was \$200. Based upon this information, the Board anticipates approximately ten 63 Pa. C.S. § 3111 applications per year, which will result in approximately \$500 in annual application costs, plus any costs associated with demonstrating competency. Applicants who demonstrate competency through continuing education courses may incur up to \$50 per credit hour or \$1,200 for 24 credit hours (\$50 x 24 credits). In responding to paragraph 23 below, the cost reported includes the potential costs for continuing education, which assumes that all 10 of the anticipated number of 63 Pa. C.S. § 3111 applicants satisfy the competency requirement by completing 24 hours of continuing education courses.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**The regulation would not result in costs or savings to local governments.**

(21) Provide a specific estimate of the costs and/or savings to the **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 incur increased operational costs to implement the licensure by endorsement under 63 Pa. C.S. § 3111. The costs incurred by the Board should be recouped in the form of application fees and paid by the applicants.**

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

**There should be no legal, accounting or consulting procedures associated with this rulemaking. Like all other applicants under the Board, affected individuals will be required to submit an application for licensure accompanied by required documentation.**

(22a) Are forms required for implementation of the regulation?

**Yes, applicants are required to submit an online application, which is done through the filing an application through the Pennsylvania Licensing System (PALS).**

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

The Bureau uses an online platform for the submission of applications for licensure through PALS, which also encompasses applications for licensure by endorsement under 63 Pa. C.S. § 3111. Within the online platform, applicants are asked a series of questions. Applicants are asked if they are currently licensed in another state and the type of license for which they are applying. Applicants currently licensed in another jurisdiction, which is defined in the proposed rulemaking as another state, territory or country, are directed to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, translated into English if needed. Applicants are required to indicate whether they have been disciplined by the jurisdiction in which they are licensed. Applicants with disciplinary history must upload appropriate documentation related to the discipline. Applicants must also provide a recent Criminal History Records Check (CHRC) from the state police or other state agency that is the official repository for criminal history record information for every state in which they have lived, worked, or completed professional training/studies for the past five (5) years. Based upon the above, applications are forwarded to Board counsel, and to the Board, if necessary, to determine eligibility under 63 Pa. C.S. § 3111. The Bureau is working towards creating a more detailed electronic application process specific to 63 Pa. C.S. § 3111 applications, which will decrease the need for manual review of applications.

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

	Current FY 20-21	FY +1 21-22	FY +2 22-23	FY +3 23-24	FY +4 24-25	FY +5 25-26
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
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	\$50-\$1,250	\$50-\$1,250	\$50-\$1,250	\$50-\$1,250	\$50-\$1,250	\$50-\$1,250
Local Government						
State Government						
<b>Total Costs</b>	\$50-\$1,250	\$50-\$1,250	\$50-\$1,250	\$50-\$1,250	\$50-\$1,250	\$50-\$1,250
<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

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 2017-2018 (actual)	FY -2 2018-2019 (actual)	FY -1 2019-2020 (as of 9/30/20)	Current FY 2020-2021 (budgeted)
State Reg. Bd. for Prof. Engineers, Land Surveyors and Geologists	\$ 1,213,274.64	\$ 1,185,411.57	\$ 1,289,000.00	\$ 1,264,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
  - (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
  - (c) A statement of probable effect on impacted small businesses.
  - (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.
- (a) This rulemaking will not have an adverse impact on small businesses unless small businesses voluntarily pay application fees or other costs relating to establishing competency. Because these fees are incurred by individuals applying for initial licensure, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs.**
- (b) This rulemaking will not impose additional reporting, recordkeeping or other administrative costs on small businesses.**
- (c) The probable effect on impacted small businesses would be positive because 63 Pa. C.S. § 3111 and the Board's regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.**
- (d) The Board could discern no less costly or less intrusive alternative methods to effectuate the purpose of 63 Pa. C.S. § 3111 that would be consistent with the Board's mandate to produce enough revenue to cover its costs of operations and to administer the act in the public interest.**

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

**No special provisions have been developed for any affected groups or persons.**

(26) 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 provisions were considered and rejected. The Board believes this proposal represents the least burdensome acceptable alternative.**

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
  - b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
  - c) The consolidation or simplification of compliance or reporting requirements for small businesses;
  - d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
  - e) The exemption of small businesses from all or any part of the requirements contained in the regulation.
- a) & b) The Board did not consider less stringent reporting requirements or deadlines for small businesses or for applicants that intend to work for small businesses. All applicants for licensure are treated equally.**
- c) There are no compliance or reporting requirements that could be consolidated or simplified. The application process is the same whether a particular licensee is employed by a small business or a large business.**
- d) The regulations do not contain design or operational standards that need to be altered for small businesses.**
- e) To exclude any applicant from the requirements contained in the regulation based on the size of their employers would not be consistent with the statute, or the Board's mandate.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**No data, studies or references were used to justify the regulation.**

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

- A. The length of the public comment period: **30 days.**
- B. The date or dates on which any public meetings or hearings will be held:

**No public hearings were scheduled or held. The Board discusses its regulatory proposals at regularly scheduled meetings. This rulemaking was discussed at public board meetings in January, May and July of 2020.**

- C. The expected date of the final-form regulation: **Summer of 2021**
- D. The expected effective date of the final-form regulation: **Upon publication as final.**
- E. The expected date by which compliance with the final-form regulation will be required: **Upon publication as final.**
- F. The expected date by which required permits, licenses or other approvals must be obtained: **N/A**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**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. The Board will meet on the following dates in 2021: March 23, May 17, September 29 and November 5. More information can be found on the Board's website at [www.dos.pa.gov/EngineersLandSurveyorsandGeologists](http://www.dos.pa.gov/EngineersLandSurveyorsandGeologists).**

CDL-1

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

**RECEIVED**  
  
APR 6 2021  
  
Independent Regulatory  
Review Commission

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=Pennsylvania Office of Attorney General, ou=Chief Deputy Attorney General, email=am Elliott@pa.gov, c=US Date: 2021.03.22 09:08:41 -0400</small></p> <p>BY: <u>Amy M. Elliott</u> (DEPUTY ATTORNEY GENERAL)</p> <p><u>3/22/2021</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved attached    <b>Objections</b></p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by</p> <p><u>Department of State</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO <u>16A-4715</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Francis J. Stanton, Jr.</u> Francis J. Stanton, Jr., P.E.</p> <p>TITLE <u>President</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><u>Marisa H. Z. Lehr</u></p> <p>BY: _____ (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><u>2/22/2021</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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**PROPOSED RULEMAKING**

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

**49 PA. CODE CHAPTER 37**

**(LICENSURE BY ENDORSEMENT UNDER ACT 41)**

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) proposes to amend Chapter 37 of Title 49 of the Pennsylvania Code by amending § 37.1 (relating to definitions) and adding §§ 37.20-37.20a (relating to licensure by endorsement; and provisional endorsement licensure) to read as set forth in Annex A.

*Effective Date*

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

*Statutory Authority*

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

The act of July 1, 2020, (P.L. 545, No. 53) added 63 Pa.CS. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) into Title 63, Chapter 31 of the Pennsylvania Consolidated Statutes. The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41) (Act 41).

*Background and Need for the Amendments*

This proposed rulemaking is needed to effectuate 63 Pa. C.S. § 3111, which requires the Board to issue a license to applicants who meet the requirements for licensure by endorsement as set forth in 63 Pa. C.S. § 3111. Under 63 Pa. C.S. § 3111, the Board must determine whether standards for licensure are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa. C.S. § 3111 requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years preceding the date of the application, and must establish, by regulation, the

expiration of provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license. The Board determined that its existing fee for certification, licensure or registration (\$50) as set forth under § 37.17 (relating to schedule of fees) is a fair and sufficient fee for a licensure by endorsement application; therefore, the Board is adopting this existing fee and not proposing a separate fee for licensure by endorsement.

*Description of the Proposed Amendments*

The Board proposes to amend § 37.1 (relating to definitions) to include a definition of the term “jurisdiction” consistent with 63 Pa. C.S. § 3111. The Board also proposes to add § 37.20 (relating to licensure by endorsement) which requires an applicant to satisfy six criteria required for licensure by endorsement. The first criterion, as set forth in proposed subsection (a)(1), requires an applicant to provide proof of a current license, certification, registration or permit in good standing to practice in another jurisdiction whose standards are substantially equivalent to those established by the Board under sections 4.2-4.4 of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P.S. § 151.2-151.4) (relating to procedures for licensing as a professional engineer, professional geologist and professional land surveyor) and §§ 37.31-37.49 (relating to registered professional engineers, registered professional geologists, and registered professional land surveyors). Proposed subsection (a)(1) further requires an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. This proposed rulemaking would also require that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because 63 Pa. C.S. § 3111 is applicable to territories and other countries that use languages other than English, where the applicable law, regulation or other rule is in a language other than English, the Board would require, at the applicant’s expense, translation of the applicable law, regulation or other rule by a professional translation service.

Proposed subsection(a)(2) requires demonstration of competency. Under this provision, an applicant must provide proof of competency by demonstrating either experience in the practice of the profession or completion of professional development hours. To demonstrate competency by experience, an applicant must demonstrate active engagement in the practice of engineering, geology or land surveying, as applicable, for at least 2 of the 5 years immediately preceding the date of the application in the jurisdiction that issued the license, certificate, registration or permit. To demonstrate competency through completion of continuing education (referred to as professional development hours under the act), an applicant must submit proof of completion of 24 hours professional development hours which meets the requirements of section 4.5 of the act, 63 P.S. § 151.5 (relating to continuing professional competency requirements). Professional development hours must be completed during the 24 months immediately preceding the date of the application. The Board proposes completion of the professional development hours within 24 months immediately preceding the date of the application because a 24-month limitation correlates with the Board’s biennial renewal requirements.

Proposed subsections (a)(3) and (4) incorporates the statutory prohibitions in 63 Pa. C.S. § 3111 pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession or occupation, and prior discipline by the jurisdiction that issued the license. As authorized by 63 Pa.C.S. § 3111 (a)(3) and (4), § 37.20(c) gives the Board the discretion to determine that an act prohibited by § 37.20(a)(3) or (4) are not impediments to the granting of a license, certification, registration or a permit.

Proposed subsection (a)(5) provides for payment of an application fee, as required by 63 Pa. C.S. § 3111(a)(5). The applicable fee for licensure by endorsement under 63 Pa. C.S. § 3111 is the initial application fee in § 37.17 (relating to schedule of fees) of the Board's current fee schedule (\$50).

Finally, proposed subsection (a)(6) requires applicants to apply for licensure in accordance with Chapter 37 in the manner and format prescribed by the Board.

In proposed 37.20(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. When a personal interview is necessary, to the extent practicable, the Board intends to offer flexibility in the manner in which an interview is conducted to include video conferencing.

In proposed § 37.20(c), the Board may in its discretion determine that an act prohibited under section 4(g) of the Act or disciplinary action by a jurisdiction are not impediments to licensure. Also, consistent with 63 Pa. C.S. § 3111(a)(3) and (4), proposed 37.20(c) authorizes the Board, in its discretion, to determine that an act prohibited under section 4(g) of the act or disciplinary action by a jurisdiction are not impediments to the granting of a license, certification, registration or a permit by endorsement under 63 Pa. C.S. § 3111.

Consistent with 63 Pa. C.S. § 3111(b), proposed § 37.20a(a) provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under 63 Pa. C.S. § 3111 and proposed § 37.20. Proposed § 37.20a(b) sets the expiration of a provisional endorsement license at 1 year, unless the Board determines that an expiration date of less than 1 year is appropriate. Additionally, upon a written request, the Board may extend the term of the license upon a showing of good cause. Proposed § 37.20a(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board denies a license or the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license. Finally, proposed § 37.20a(d) clarifies that while an individual may reapply for a license by endorsement under proposed § 37.20, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

Lastly, under proposed § 37.20a(e), the Board makes clear that holders of provisional endorsement licenses must follow the rules governing the proper use of a registrant's seal as set forth under section 7 of the act and §§ 37.57-37.59 (relating to registration number and seal).

### *Fiscal Impact and Paperwork Requirements*

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

### *Sunset Date*

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

### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 6, 2021, the Board submitted a copy of 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 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 Board Counsel, State Registration Board for Professional Engineers, Land Surveyors and Geologists, at P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail at [RA-STRegulatoryCounsel@pa.gov](mailto:RA-STRegulatoryCounsel@pa.gov) within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference 16A-4715 (Licensure by Endorsement), when submitting comments.

James Szalankiewicz, PE, PLN, 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:

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

*Jurisdiction*—A state, territory or country.

*NCEES*--The National Council of Examiners for Engineering and Surveying.

\* \* \* \* \*

**§ 37.20. Licensure by endorsement.**

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

**(1) Has a current license, certification, registration, or permit in good standing to practice professional engineering, geology or land surveying in another jurisdiction whose**

standards are substantially equivalent to or exceed those established under sections 4.2 through 4.4 of the act (63 P.S. § 151.2-151.4) and §§ 37.31-37.49 (relating to requirements for certification).

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

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

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

(2) Demonstrates competency by one of the following:

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

(ii) Completion of 24 professional development hours that meet the requirements of 63 P. S. § 151.5 (relating to continuing professional competency requirements) during the 24 months immediately preceding the date of the application.

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

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

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

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

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

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

**§ 37.20a. Provisional endorsement license.**

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

licensure by endorsement under 63 Pa. C.S. § 3111 (relating to licensure by endorsement) and § 37.20 (relating to licensure by endorsement).

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

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

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

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

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

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

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

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



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

Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7049

April 6, 2021

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harrisstown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Registration Board of Professional Engineers, Land Surveyors and Geologists  
16A-4715: Licensure by Endorsement Under Act 41

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Registration Board of Professional Engineers, Land Surveyors and Geologists pertaining to Licensure by Endorsement Under Act 41.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'James Szalankiewicz'.

James Szalankiewicz, PE, PLN, President  
State Registration Board of Professional Engineers,  
Land Surveyors and Geologists

JS/CWF:aaw  
Enclosure

cc: K. Kalonji Johnson, Commissioner of Professional and Occupational Affairs  
Kraig R. Kiehl, Deputy Secretary of Regulatory Programs  
Marc Farrell, Deputy Director of Policy, Department of State  
Cynthia Montgomery, Deputy Chief Counsel, Department of State  
Jacqueline A. Wolfgang, Regulatory Unit Counsel, Department of State  
C. William Fritz, Board Counsel,  
State Registration Board of Professional Engineers, Land Surveyors and Geologists  
State Registration Board of Professional Engineers, Land Surveyors and Geologists

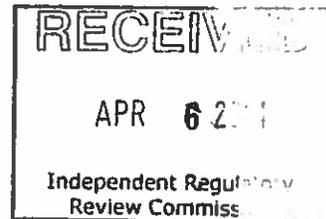
## Worthington, Amber

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**From:** Blauch, Tammy <tblauch@pasen.gov>  
**Sent:** Tuesday, April 6, 2021 8:54 AM  
**To:** Worthington, Amber; Smeltz, Jennifer  
**Subject:** RE: DELIVERY 16A-4715 Proposed Rulemaking

Good morning Amber,  
Our office received your email.  
Have a great day.

*Tammy Blauch*  
Executive Secretary  
Office of Senator Robert M. Tomlinson  
Room 286 Main Capitol Building  
Harrisburg, PA 17120  
(717)-787-5072  
Fax: (717)772-2991  
[tblauch@pasen.gov](mailto:tblauch@pasen.gov)



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**From:** Worthington, Amber <agontz@pa.gov>  
**Sent:** Tuesday, April 6, 2021 7:53 AM  
**To:** Blauch, Tammy <tblauch@pasen.gov>; Smeltz, Jennifer <jmsmeltz@pasen.gov>  
**Subject:** DELIVERY 16A-4715 Proposed Rulemaking  
**Importance:** High

Ⓢ CAUTION : External Email Ⓢ

**Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.**

Please be advised that the following Board is delivering the following rulemaking:

- State Registration Board of Professional Engineers, Land Surveyors and Geologists 16A-4715 Licensure by Endorsement under Act 41

**Amber Worthington, PLS** | *Legal Assistant Supervisor*  
(preferred pronouns: they/them/theirs)  
Department of State | Counsel Division Legal Office | Clerical Supervisor 2  
2601 North Third Street, P.O. Box 69523  
Harrisburg, PA 17106-9523  
Phone: 717.783.7200 | Fax: 717.787-0251  
[www.dos.pa.gov](http://www.dos.pa.gov)

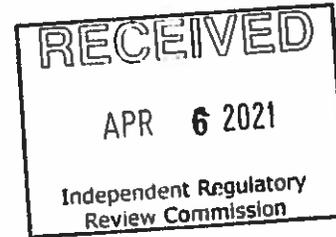
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## Worthington, Amber

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**From:** Livingston, Jerry <Jerry.Livingston@pasenate.com>  
**Sent:** Tuesday, April 6, 2021 9:34 AM  
**To:** Worthington, Amber  
**Cc:** Keim, Jennifer  
**Subject:** RE: DELIVERY 16A-4715 Proposed Rulemaking



Received. Thanks!  
-JJ

---

**From:** Worthington, Amber <agontz@pa.gov>  
**Sent:** Tuesday, April 6, 2021 7:57 AM  
**To:** Livingston, Jerry <Jerry.Livingston@pasenate.com>  
**Cc:** Keim, Jennifer <Jennifer.Keim@pasenate.com>  
**Subject:** DELIVERY 16A-4715 Proposed Rulemaking

■ EXTERNAL EMAIL ■

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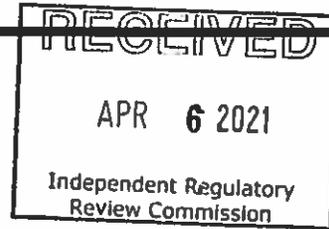
**Amber Worthington, PLS** | *Legal Assistant Supervisor*  
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**Worthington, Amber**



**From:** Nicole Sidle <Nsidle@pahousegop.com>  
**Sent:** Tuesday, April 6, 2021 8:06 AM  
**To:** Worthington, Amber  
**Cc:** Emily Epler  
**Subject:** RE: DELIVERY 16A-4715 Proposed Rulemaking

Received.

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**From:** Worthington, Amber <agontz@pa.gov>  
**Sent:** Tuesday, April 6, 2021 7:57 AM  
**To:** Nicole Sidle <Nsidle@pahousegop.com>  
**Cc:** Emily Epler <Eepler@pahousegop.com>  
**Subject:** DELIVERY 16A-4715 Proposed Rulemaking

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## Worthington, Amber

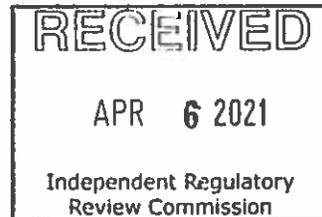
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**From:** Wilson, Marlene <MWilson@pahouse.net>  
**Sent:** Tuesday, April 6, 2021 8:26 AM  
**To:** Worthington, Amber  
**Subject:** RE: DELIVERY 16A-4715 Proposed Rulemaking

Received. Thank you.



*Marlene Wilson, Esquire  
Senior Committee Executive Director  
House Professional Licensure Committee  
Rep. Jake Wheatley, Jr., Chairman  
Phone: (717) 787-4032  
Internal Phone: 6253  
Email - [mwilson@pahouse.net](mailto:mwilson@pahouse.net)*



---

**From:** Worthington, Amber <agontz@pa.gov>  
**Sent:** Tuesday, April 6, 2021 7:58 AM  
**To:** Wilson, Marlene <MWilson@pahouse.net>  
**Subject:** DELIVERY 16A-4715 Proposed Rulemaking

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**Amber Worthington, PLS** | *Legal Assistant Supervisor*  
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**Worthington, Amber**

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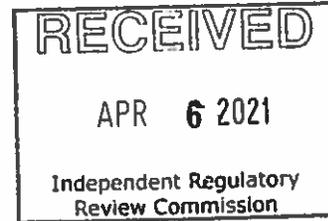
**From:** Bulletin <bulletin@palrb.us>  
**Sent:** Tuesday, April 6, 2021 8:01 AM  
**To:** Worthington, Amber  
**Subject:** [External] RE: DELIVERY 16A-4715 Proposed Rulemaking

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Good Morning Amber:

Thank you for sending PRM 16A-4715. Take care and have a nice day!

Corinne Marut  
Editorial Assistant  
Legislative Reference Bureau  
Pennsylvania Code & Bulletin Office  
[cmarut@palrb.us](mailto:cmarut@palrb.us)



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**From:** Worthington, Amber <agontz@pa.gov>  
**Sent:** Tuesday, April 6, 2021 7:58 AM  
**To:** Bulletin <bulletin@palrb.us>  
**Subject:** DELIVERY 16A-4715 Proposed Rulemaking

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