

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

[49 PA. CODE CH. 37]

Appeal from Board Decision

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) amends § 37.102 (relating to appeal from the Board's decision) to read as set forth in Annex A.

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

Public notice of intention to amend the regulation under procedures in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL), has been omitted under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because § 37.102 conflicts with statutory provisions which govern petitions, and the amendment, therefore, is merely ministerial. Persons affected by this amendment, however, have been given actual notice of the Board's intention to amend this regulation and in advance of final rulemaking under section 204(2) of the CDL.

Compliance with Executive Order 1996-1

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

Statutory Authority

The statutory authority for this final-omitted rulemaking is section 4(i) of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § 151(i)).

Fiscal Impact and Paperwork Requirements

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

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

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on April 27, 1999, a copy of this amendment was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. At the same time, the amendment was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, this final-omitted regulation was approved by the House Professional Licensure Committee on May 11, 1999, deemed approved by the Senate Consumer Protection and Professional Licensure Committee on May 17, 1999, and approved by IRRC on May 20, 1999.

Additional Information

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

Findings

The Board finds that:

(1) Public notice of intention to amend the final-omitted regulation as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under section 204(3) of the CDL because the Board has, for good cause, found that the procedures in sections 201 and 202 of the CDL are, in this circumstance, unnecessary, inasmuch as this amendment relates directly to agency procedure or practice.

(2) Persons affected by the final-omitted regulation as adopted by this order have been given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulation of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

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

(a) The regulations of the Board, 49 Pa. Code Chapter 37, are amended by amending § 37.102 to read as set forth in Annex A.

(b) The President of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The President of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall be effective upon publication in the *Pennsylvania Bulletin*.

LOUIS A. GUZZI, P.C.,
President

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 2933 (June 5, 1999).)

Fiscal Note: 16A-476. 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

§ 37.102. Appeal from the Board decision.

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

[Pa.B. Doc. No. 99-891. Filed for public inspection June 4, 1999, 9:00 a.m.]