



New Jersey – Ethics, Statutes and Regulations for Professional Engineers

Four (4) Continuing Education Hours
Course #NJ101

Approved Continuing Education for Licensed Professional Engineers

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Course Description:

The New Jersey Ethics, Statutes and Regulations course satisfies the Continuing Professional Competency (CPC) requirements of two (2) hours of Professional Practice Ethics.

Additionally, the current New Jersey Statutes & Regulations are covered with an extra two (2) hours awarded which applies to the overall 24 hours of continuing education credit required for each NJ licensed engineer.

The course is designed as a distance learning interactive course that enables the practicing professional engineer to examine and practice the canons of ethics as well as keep up to date on the legal aspects that govern the practice of engineering in the state of New Jersey.

Objectives:

The primary objective of this course is to familiarize the student with the standards of professional behavior for adherence to the highest principles of ethical conduct as well as apply those principles in reviewing real case studies.

The secondary objective of this course is to familiarize the student with the laws and rules regulating the practice of engineering in the state of New Jersey.

Upon successful completion of the course, the student will have a thorough understanding of ethical practices and be well versed with the NJ statutes and regulations.

Grading:

Students must achieve a minimum score of 70% on the online quiz to pass this course. The quiz may be taken as many times as necessary in order to successfully pass.

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CODE OF ETHICS

Preamble

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

- 1) Hold paramount the safety, health, and welfare of the public.
- 2) Perform services only in areas of their competence.
- 3) Issue public statements only in an objective and truthful manner.
- 4) Act for each employer or client as faithful agents or trustees.
- 5) Avoid deceptive acts.
- 6) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.

- 1) If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
 - 2) Engineers shall approve only those engineering documents that are in conformity with applicable standards.
 - 3) Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
 - 4) Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
 - 5) Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
 - 6) Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.
2. Engineers shall perform services only in the areas of their competence.
- 1) Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
 - 2) Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
 - 3) Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.
3. Engineers shall issue public statements only in an objective and truthful manner.
- 1) Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent

information in such reports, statements, or testimony, which should bear the date indicating when it was current.

2) Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.

3) Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

4. Engineers shall act for each employer or client as faithful agents or trustees.

1) Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.

2) Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

3) Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.

4) Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.

5) Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

5. Engineers shall avoid deceptive acts.

1) Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the

solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.

2) Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

III. Professional Obligations

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

1) Engineers shall acknowledge their errors and shall not distort or alter the facts.

2) Engineers shall advise their clients or employers when they believe a project will not be successful.

3) Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.

4) Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.

5) Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.

2. Engineers shall at all times strive to serve the public interest.

1) Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.

2) Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the

client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.

3) Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.

4) Engineers are encouraged to adhere to the principles of sustainable development¹ in order to protect the environment for future generations.

3. Engineers shall avoid all conduct or practice that deceives the public.

1) Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.

2) Consistent with the foregoing, engineers may advertise for recruitment of personnel.

3) Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.

4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.

1) Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.

2) Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.

5. Engineers shall not be influenced in their professional duties by conflicting interests.

1) Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.

2) Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or

employers of the engineer in connection with work for which the engineer is responsible.

6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.

1) Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.

2) Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.

3) Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

1) Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.

2) Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.

3) Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.

- 1) Engineers shall conform with state registration laws in the practice of engineering.
 - 2) Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.
9. Engineers shall give credit for engineering work to those to whom credit is due and will recognize the proprietary interests of others.
- 1) Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
 - 2) Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
 - 3) Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
 - 4) Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.
 - 5) Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.

ENGINEERING ETHICS CASE REVIEWS

Case 1: Incomplete Plans and Specifications – Engineer, Government, And Contractor Responsibilities

Facts:

Engineer A responds to an RFP from a small local public agency to build a new dam to be financed in part by a federal grant. Engineer A's firm's impressive brochure and personal interview results in the award of a contract for the design, drawings, and specifications.

The signed and sealed drawings and specifications are ultimately approved by Engineer B of the engineering staff of the federal agency funding the project, and the project is thereafter duly advertised for bids and a contract is awarded to the low bidder, Hi-Lo Construction. The local public agency does not have the in-house technical resources to review the drawings and specifications.

At the pre-construction conference, it is pointed out by Engineer C, owner of Hi-Lo Construction, that much of the design detail is lacking in the drawings and specifications and that Hi-Lo Construction declares that certain parts of the project are "unbuildable" without major changes. Engineer A generally agrees with Hi-Lo's characterization, but in his defense responds that he felt pressured to deliver the drawings and specifications on a specified date, but did not inform anyone as to their incompleteness. While much of the information was missing from the drawings and specifications, Engineer A was confident that sufficient federal funds (and not local funding) would cover any potential increased costs.

References:

Section I.1. - Code of Ethics: Engineers, in the fulfillment of their professional duties, shall hold paramount the safety, health and welfare of the public.

Section II.3.a. - Code of Ethics: Engineers shall be objective and truthful in professional reports, statements or testimony. They shall include all

relevant and pertinent information in such reports, statements or testimony, which should bear the date indicating when it was current.

Section II.5. - Code of Ethics: Engineers shall avoid deceptive acts.

Section III.1.b. - Code of Ethics: Engineers shall advise their clients or employers when they believe a project will not be successful.

Section III.2.b. - Code of Ethics: Engineers shall not complete, sign or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.

Discussion:

The Board has considered cases involving similar situations in the past. In BER Case No. 82-5, where an engineer employed by a large defense industry firm documented and reported to his employer excessive costs and time delays by sub-contractors, the Board ruled that the engineer did not have an ethical obligation to continue his efforts to secure a change in the policy after his employer rejected his reports or to report his concerns to proper authority, but has an ethical right to do so as a matter of personal conscience. The Board noted that the case did not involve a danger to the public health or safety, but related to a claim of unsatisfactory plans and the unjustified expenditure of public funds. The Board indicated that it could dismiss the case on the narrow ground that the NSPE Code does not apply to a claim not involving public health and safety, but that was too narrow a reading of the ethical duties of engineers engaged in such activities. The Board also stated that if an engineer feels strongly that an employer's course of conduct is improper when related to public concerns, and if the engineer feels compelled to blow the whistle to expose facts as he sees them, he may well have to pay the price of loss of employment. In this type of situation, the Board felt that the ethical duty or right of the engineer becomes a matter of personal conscience, but the Board was unwilling to make a blanket statement that there is an ethical duty in these kinds of situations for the engineer to continue the campaign within the company and make the issue one for public discussion.

As in Case No. 82-5, the issue does not allege a danger to public health or safety, but is premised upon a claim of unsatisfactory plans and the unjustified expenditure of public funds. In Case No. 82-5, the Board found that, while the Code did not require disclosure, the engineer did have an ethical right to pursue the matter further, even to

the point of public disclosure. Unlike Case No. 82-5, this case does not involve a conflict with the ethical requirement of confidentiality, but concerns the affirmative responsibility of engineers to complete plans in conformity with applicable engineering standards and avoid deceptive acts.

While the Board certainly hopes that the facts involved in this case are very unique and do not represent more than a small fraction of public design and construction projects in the United States, it appears that the facts as presented in this case are, unfortunately, not as unique as one might hope.

It is clear that Engineer A had an obligation to provide a complete set of design drawings and specifications on the project in which Engineer A was engaged. Unlike what is required on some projects (e.g., design/build or construction contracts with specific design delegation clauses or provisions) where the engineer is expected to only design a certain percentage of the project prior to the selection of the contractor, here, Engineer A was fully required to provide the complete design on the project. Engineer A's bold assertion that the work was incomplete, but that this was due to time pressures and his expectation that Federal funds would be awarded to complete the work is wholly unconvincing. Engineer A was selected for his expertise, which presumably included Engineer A's ability to fully perform the work based on project time parameters.

Engineer A's comment about Federal funds borders on fraud and misrepresentation and is a clear violation of the NSPE Code.

Engineer B's approval of Engineer A's incomplete plans is troubling, although we do not know all of the facts and circumstances relating to the decision to approve. Engineers have an obligation to perform services within their area of competence. If Engineer B was not able to perform the necessary reviews of Engineer A's work, Engineer B should have provided this information to a supervisor who would have assigned an appropriate engineer to perform the review. Not possessing adequate competency to perform a task is not in and of itself a violation of the NSPE Code, but the failure to recognize the lack of competency and take appropriate action to address the situation is a violation of the NSPE Code.

Finally, the Board believes that Engineer C's actions in bidding on an "unbuildable" contract is also very troubling. Presumably, Engineer C had an opportunity to review the bidding documents which included appropriate engineering drawings, plans, and specifications. From such a review, Engineer C should have had a sense of what would

be necessary to complete the project. If the engineering documents were incomplete or inadequate, then Engineer C's bid should have reflected that fact and contained appropriate bid items for additional services required to complete the work for the benefit of the owner. In addition, Engineer C could have requested further clarification from the owner or Engineer A in order to better understand the engineering drawings.

As an engineer and a contractor presumably, Engineer C had the necessary background and experience to carefully evaluate the engineering drawings as well as other aspects of the work in order to make an informed decision as to whether to bid on the project. Engineer C had no one to fault but himself for the problems Engineer C encountered in attempting to build the project. Engineer C submitted the low bid on the project, presumably knowing inadequacies of the documents as well as the obvious risks involved.

Case 2: Incomplete Plans and Specifications

Use of P.E. Designation Not Licensed In State in Which Complaint Is Filed

Facts:

Engineer A is a safety engineer for a federal agency. He is responsible for independently overseeing the proper implementation of worker and nuclear safety programs in the agency's facilities, which are located in many different states, including the state in which Engineer A is licensed, State Y. Engineer A is not required to be licensed by the federal agency, but has become licensed because of his personal commitment to the engineering profession.

Engineer A has never used his seal in the course of his employment. When Engineer A moves to State Z, he does not obtain an engineering license in State Z. Engineer A reads a newspaper account about LMN Engineering, a subcontractor to the federal agency in which he works, having a conflict of interest with the agency. Engineer A, acting on his ethical obligation to report violations of the NSPE Code of Ethics to a public authority, files a complaint against LMN Engineering. In the text of the complaint, Engineer A indicates that he is licensed in State Y but not licensed in State Z and signs the letter "Engineer A, P.E."

Engineer A is thereafter notified by the State Z engineering licensure board that his use of the title "P.E." in the letter is inappropriate because he is not licensed in State Z.

References:

Section II.1. - Code of Ethics: Engineers shall hold paramount the safety, health, and welfare of the public.

Section II.1.e. - Code of Ethics: Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

Section II.3. - Code of Ethics: Engineers shall issue public statements only in an objective and truthful manner.

Section II.3.b. - Code of Ethics: Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.

Section III.3.a. -Code of Ethics:Engineers shall avoid the use of statements containing a material mis-representation of fact or omitting a material fact.

Discussion:

The use of appropriate engineering titles has long been an important issue within the engineering profession. Misuse of engineering titles has the effect of misleading and deceiving the general public, as well as diminishing the image and stature of qualified engineering professionals. In recent years, efforts have been undertaken to educate individuals and companies about the inappropriate use of engineering titles or references by many engineering organizations and state engineering licensure boards. State engineering licensure boards have also increasingly taken a stricter position on the use of the reference, "P.E.," by licensed engineers not licensed in the state in which the reference is being used. In fact, some states have developed guidelines on appropriate use of the "P.E." reference.

The NSPE Board of Ethical Review has had recent occasion to consider the use of appropriate engineering titles. For example, the Board has had three occasions to consider cases involving alleged misrepresentation of credentials or status. BER Case No. 90-4 involved the question of whether it was ethical for Engineer Z, a principal in an engineering firm, to continue to represent Engineer X as an employee of his Firm. Engineer X had been employed by Firm Y, a medium-sized engineering consulting firm

controlled by Engineer Z. Engineer X was one of a few engineers in Firm Y with expertise in hydrology, but the firm's work in the field of hydrology did not constitute a significant percentage of its work. Engineer X, an associate with the firm, gave two weeks notice of her intent to move to another firm. Thereafter, Engineer Z continued to distribute a brochure identifying Engineer X as an employee of Firm Y and list Engineer X on the firm's resume.

In concluding that Engineer Z's actions were not unethical, the Board noted that under the facts of the case, there was no suggestion that any of the brochures or other promotional material describe Engineer X as a "key employee" in the firm. Nor was there any effort or attempt on the part of Firm Y to highlight the activities or achievements of Engineer X in the field of hydrology. While the facts reveal that Engineer X was one of the few engineers in the firm with expertise in the field of hydrology, Engineer X was not the only engineer in the firm who possessed such expertise. In addition, it appeared that this area of practice did not constitute a significant portion of the services provided by Firm Y. Therefore, the Board concluded that the inclusion of Engineer X's name in the firm's brochure and resume did not constitute a misrepresentation of "pertinent facts."

Importantly, however, in BER Case No. 90-4, the Board went on to note that "We must make clear that we are not condoning the failure of an engineering firm to correct material (brochures, resumes, etc.) which might have the unintentional effect of misleading clients, potential clients, and others. While we recognize the realities of firm practice and the logistical problems involved in marketing and promotion, we do believe it is important for firms to take actions to expeditiously correct any false impressions which might exist." The Board continued by noting that "we believe engineering firms that use printed material as part of their marketing efforts should take reasonable steps to assure that such written matter is as accurate and up-to-date as possible. In the case of marketing brochures and other similar materials, errata sheets, cover letters, strike-outs and, if necessary, reprints should be employed within a reasonable period of time to correct inaccuracies, particularly where a firm has reason to believe that a misunderstanding might occur. Firms that fail to take such measures run the risk of breaching ethical behavior."

Later, in BER Case No. 91-9, the Board considered a case involving Engineer A, who misrepresented his educational credentials. In carefully considering earlier BER opinions, the Board again noted that the issue of falsification or misrepresentation of academic or professional qualifications is a core ethical issue because it goes to the heart of engineering ethics—the protection of the public health and safety through the

establishment of rules of conduct that help to assure that the public receives the highest quality engineering services possible.

The Board has noted its deep concern over situations and circumstances in which an individual expressly or implicitly falsifies or misrepresents academic or professional qualifications to employers, clients, or members of the public.

More recently, in BER Case No. 97-8, Engineer A was licensed as a professional engineer in State B, the state in which Engineer A resided. Engineer A was about to retire from his full-time employment with ENG Co. As part of this transition and because Engineer A would no longer be engaged in the practice of engineering under his state's law, Engineer A planned to discontinue his professional engineering license, which was paid for by his former employer. Engineer A planned to continue serving on several local governmental boards. Because of his association with and the pride he had for engineering, Engineer A wanted to continue to use the P.E. designation after his name on his board business card and on the board's letterhead. Engineer A took pride in his longstanding status as a professional engineer and believed he would be giving professional engineering added recognition by including the reference on the letterhead, which included other individuals such as attorneys and architects. State B did not have a provision in its law addressing the issue of "inactive status." In reviewing this issue, the Board noted that at first blush, the facts appeared to present a set of circumstances that would dictate an obvious result. It would appear on its face that an individual who has a close affinity with the engineering profession during his or her lifetime should be permitted to continue to use the P.E. designation after retirement. Once earned, it would seem unjust to deny one the right to call oneself a professional engineer (P.E.), particularly where the individual is seeking to enhance the recognition of professional engineers and professional engineering.

However, upon further examination, the Board deemed the issue to be more complex than first thought and raised the question of misrepresentation of credentials or status. The facts in BER Case No. 97-8 were quite different in degree than those involved in the earlier cases reviewed, and the Board noted that the facts did involve a degree, albeit slight, of misrepresentation. While it was true that Engineer A had demonstrated the necessary qualifications to be licensed as a professional engineer, Engineer A made a conscious and intentional decision to cease maintaining his status as a professional engineer in his state. While the Board recognized and appreciated Engineer A's desire to enhance the status and image of all professional engineers by indicating his professional status, they believed it was important that this status be represented in a

manner that is above reproach, particularly because of the very public nature of Engineer A's position on several local governmental boards. The Board concluded that at a minimum, Engineer A should have indicated his inactive or retired status next to the P.E. designation. To do otherwise would create a misleading impression that Engineer A was currently licensed under state law in the jurisdiction in which he resided, and this could potentially cause embarrassment to all professional engineers. There was nothing demeaning or derogatory for an engineer to provide this straightforward and simple clarification in his status. To do so would clearly be consistent with the letter and the spirit of the law and avoid any possible questions or doubts about any actions, however unintentional, to mislead or deceive anyone concerning Engineer A's current status as an engineer. The Board concluded that it would be ethical for Engineer A to continue to use the P.E. designation after his name, as long as Engineer A indicated his inactive or retired status next to the P.E. designation, and as long as this was done in compliance with the state engineering licensing laws and regulations.

Turning to the facts in the instant case, the Board believes that the conclusion reached in BER Case No. 97-8 is partly applicable to the discussion in the present case. As noted earlier, the Board recognizes that state engineering licensure boards are becoming increasingly strict on the use of engineering titles and references. However, in view of Engineer A's clarification in the body of his letter to the engineering licensure board concerning his licensure status in states Y and Z, and the fact that the complaint letter was sent to a limited group of individuals, the Board believes that Engineer A was not attempting to mislead or deceive the board or any other group or individual concerning his licensure status. Instead, the Board believes Engineer A's actions were probably an oversight, or at worst, a misunderstanding of the law or requirements of State Z.

Therefore, the Board cannot conclude that Engineer A's actions, although criticized by a state engineering licensure board, amount to a violation of the NSPE Code. At the same time, the Board must caution all engineering licensees on the need to be familiar with the technical requirements contained in applicable state engineering licensure statutes and regulations to avoid unintended violations of the law.

The NSPE Code of Ethics is a national code of ethics and this Board believes the NSPE Code obligates NSPE members to report ethical violations to the appropriate authorities in whatever jurisdiction the NSPE member observes the violation. This obligation is separate and apart from the obligation a professional engineer may have under state law.

As to the second question, Engineer A's actions are fully consistent with the professional and ethical obligation to hold paramount the health, safety and welfare of the public. While this obligation is codified in state laws, its application cannot be restricted within state boundaries. The NSPE Code of Ethics is a national code of ethics and this Board believes the NSPE Code obligates NSPE members to report ethical violations to the appropriate authorities in whatever jurisdiction the NSPE member observes the violation. This obligation is separate and apart from the obligation a Professional Engineer may have under state law.

Case 3: Responsible Charge Working Part-Time for Firm

FACTS:

Engineer A is a licensed professional engineer and land surveyor in state A. Engineer A is associated with a firm, XYZ Engineering and Surveying (which offers professional engineering and surveying), as the licensed professional engineer in charge under the state's certificate of authorization requirement. The firm has not performed any work outside of state A. Engineer A's understanding of the law of state A is that a licensed professional engineer is to be in "responsible charge" of engineering and a person licensed as a professional land surveyor is to be in "responsible charge" of land surveying. These persons in responsible charge can be a principal of the firm or an employee of the firm under the state's laws.

The agreement Engineer A has with XYZ Engineering and Surveying is that XYZ grants Engineer A 10% share of the stock in the firm and as compensation for his engineering services, Engineer A will receive 5% of the gross billings for engineering work for which the seal of a licensed engineer in responsible charge of engineering is required. This agreement is contingent on the understanding that if any one of the three principals of XYZ Engineering and Surveying becomes licensed as a professional engineer in state A, the agreement will become void and the 10% stock will be returned to XYZ Engineering and Surveying.

In addition to working with XYZ Engineering and Surveying, Engineer A has a full-time engineering position for a state governmental agency. This work requires no engineering license. Engineer A works thirty-five hours per week on a flex-time basis and provides about twenty hours per week supervising engineering services at the firm, plus an additional twelve hours of work on the weekends. Engineer A does not normally go into the field for XYZ Engineering and Surveying but is available for consultation, twenty-four hours a day.

Both the state governmental agency and the engineering firm are aware of Engineer A's activities as a dual employee and do not object to these activities.

REFERENCES:

II.2.b. - Code of Ethics: Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack

competence, nor to any plan or document not prepared under their direction and control.

II.2.c. - Code of Ethics: Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

II.4.d. - Code of Ethics: Engineers in public service as members, advisors or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.

II.4.e. - Code of Ethics: Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

II.5.a. - Code of Ethics: Engineers shall not falsify their qualifications or permit misrepresentation of their, or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers or past accomplishments.

III.1.c. - Code of Ethics: Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.

III.6.a. - Code of Ethics: Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.

III.6.b. - Code of Ethics: Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.

DISCUSSION:

The circumstances faced by Engineer A in this case are not unlike circumstances occasionally faced by other engineers who seek to explore career opportunities beyond a full-time position. A key question involved in such activities is whether the engineer can devote sufficient attention to the responsibilities involved in an ethical manner.

Engineers are frequently required to provide oversight and review of the work of others under their supervision and sign and seal the drawings. As noted in NSPE Code Section II.2.b. it states that engineers are not permitted to affix their signatures to any plans and documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control. This principle is one of the most basic and fundamental ethical principles to which professional engineers are required to adhere because it goes to the heart of the public trust upon which their professional status is based.

The BER has in the past had occasion to consider cases similar to this case. In BER Case No. 91-8, an Engineer's firm was retained by a major fuel company to perform site investigations in connection with certain requirements under state and federal environmental regulations. Under the procedures established by the Engineer's firm, the site visits would be conducted by engineering technicians under direct supervision of Engineer A who would perform all observations, sampling, and preliminary report preparation. Engineering technicians would also take photographs of the sites. No professional engineers were present during the site visits. Following site visits, all pertinent information and material was presented to Engineer A who was competent in this field. Following a careful review, Engineer A would certify that the evaluations were conducted in accordance with engineering principles.

In considering whether it was ethical for Engineer A to certify that the evaluations were conducted in accordance with engineering principles, the Board noted that the NSPE Code of Ethics is very clear concerning the requirements of engineers not to affix their signatures to any plans or documents dealing with subject matter in which the engineers lack competence, nor to any plan or document not prepared under their direction and control (See NSPE Code Section II.2.b.). The BER concluded that it was ethical for the engineer to certify that the evaluations were conducted in accordance with engineering principles so long as the engineer exercising direction and control performs a careful and detailed review of the material submitted by the engineer's staff and there has been full compliance with NSPE Code Section II.2.c.

Also, in BER Case No. 86-2, an engineer was the chief engineer within a large engineering firm, and affixed his seal to some of the plans prepared by licensed

engineers working under his general direction who did not affix their seals to the plans. At times, the engineer also sealed plans prepared by unlicensed graduate engineers working under his general supervision. Because of the size of the organization and the large number of projects being designed at any one time, the engineer found it impossible to give a detailed review or check of the design. He believed he was ethically and legally correct in not doing so because of his confidence in the ability of those he had hired and who were working under his general direction and supervision. By general direction and supervision, the engineer meant that he was involved in helping to establish the concept, the design requirements, and review elements of the design or project status as the design progressed. The engineer was consulted about technical questions and he provided answers and direction in these matters. In evaluation of the facts and circumstances in this case, the Board focused on the language in the NSPE Code Section II.2.b. relating to the obligation of engineers not to affix their signature to documents or plans ... not prepared under their "direction and control." Following a careful review of the plain meaning of the terms "direction" and "control," the Board concluded that the terms have meaning which, when combined, would suggest that an engineer would be required to perform all tasks related to the preparation of the drawings, plans, and specifications in order for the engineer ethically to affix his seal. The Board also noted at the time that the NCEES Model Law would require that an engineer must be in "responsible charge" -- meaning "direct control and personal supervision of engineering work" -- in order to affix his seal. After careful evaluation, the Board concluded that it would not be ethical for the engineer to seal plans that have not been prepared by him or which he has not checked and reviewed in detail.

In BER Case No. 90-6, the Board considered two separate fact situations involving the signing and sealing by an engineer of documents prepared using a CADD system. In considering the facts, the Board noted that the rendering of the Board's decision in BER Case No. 86-2 raised a considerable degree of discussion within the engineering community because to many it appeared to be inconsistent with customary and general prevailing practices within the engineering profession and would therefore place a significant number of practitioners in conflict with the provisions of the Code. The Board noted at the time that the Code of Ethics is not a static document and must reflect and be in consonance with general prevailing practices within the engineering profession. Said the Board, "the Code must not impose an impossible or idealistic standard upon engineers, but rather must establish a benchmark of reasonable and rational methods of practice for it to maintain its credibility and adherence." The Board determined that the conclusion in BER Case No. 86-2 should be modified to reflect actual practices which exist within engineering and not impose an impossible standard upon practice. Said the Board, "Were the Board to decide BER Case No. 86-2 today, the Board would

conclude that it was not unethical for the engineer in that instance to seal plans that were not personally prepared by him as long as those plans were checked and reviewed by the engineer in some detail. The Board does not believe this represents a reversal of the Board's decision in BER Case No. 86-2, but rather a clarification, particularly for those who were troubled by the Board's discussion and conclusion in that case."

Once again, we follow the reasoning in BER Case No. 90-6 and its clarification of BER Case No. 86-2. Under the facts in the instant case, we believe it was appropriate for Engineer A to sign and seal the drawings under the facts and circumstance involved in this case. Engineer A is providing approximately thirty-two hours each week of engineering services to the firm and is on call twenty-four hours a day to provide engineering field services for the benefit of the firm and its clients. His responsibilities appear to be consistent with the state's certificate of authorization requirements, are limited to professional engineering services and do not involve land surveying services. As noted under the facts, Engineer A has a flexible schedule with his other employer and presumably is able to adjust his schedule to meet the needs of his employers. While it appears that Engineer A may be stretching his role as an engineer in responsible charge for the firm, without more evidence to suggest improper activity, we are hesitant to conclude that Engineer A was violating the NSPE Code of Ethics.

The manner in which Engineer A is compensated does not appear to contain any specific provision which would necessarily run afoul of the NSPE Code of Ethics. Under NSPE Code Section III.6.a., engineers are not permitted to request, propose or accept a commission on a contingency basis under circumstances in which their judgment may be compromised. Although it could be argued that Engineer A's receiving 5% of the gross billings for engineering work for which the seal of a licensed engineer is required could potentially compromise Engineer A's judgment, we believe that would stretch this provision of the NSPE Code of Ethics beyond its actual intent. Otherwise, virtually any compensation scheme that was not based upon the number of hours worked could be held to be in violation of the NSPE Code of Ethics and that would be an impractical conclusion.

In addition, the Board views the transfer provision ("The agreement is contingent on the understanding that if any one of the three principals of XYZ Engineering and Surveying becomes licensed as a professional engineer in state A, the agreement will become void and the 10% stock will be returned to XYZ Engineering and Surveying") is not of a nature that would compromise Engineer A's judgment. Instead, the Board views this provision as a means of the firm's principals' maintaining control over the management of the firm.

With regard to Engineer A's dual role as an governmental employee and a private employee, as noted under the facts, both the state governmental agency and the engineering firm are aware of Engineer A's activities as a dual employee and do not object to these activities. However, the Board must note that should a conflict-of-interest arise (e.g., where Engineer A or the firm's activities conflict with the governmental employer's activities or interests) Engineer A will need to carefully address those activities consistent with NSPE Code Sections III.6.b., II.4.d., II.4.e. and other applicable provisions of the NSPE Code.

As has been noted in cases similar to this one, while the actions of Engineer A may be consistent with the NSPE Code of Ethics, it is critical for an engineer under these circumstances to understand the need to perform a careful review of all pertinent material before signing and sealing appropriate plans and drawings. We are of the view that so long as the professional engineer exercising direction and control performs a careful and detailed review of the material submitted by the engineer's staff, there has been compliance with NSPE Code Section II.2.c. In addition, Engineer A must carefully review and understand all state requirements regarding "responsible charge" activities including possible local office and employment restrictions.

NEW JERSEY STATUTES: TITLE 45

PROFESSIONS AND OCCUPATIONS

Ch. 45:8 Examining Board (45:8-27 to 45:8-60)

45:8-27. License required; display of license; exceptions; corporations, firms, partnerships and associations

In order to safeguard life, health and property, and promote the public welfare, any person practicing or offering to practice professional engineering or professional land surveying in this State shall hereafter be required to submit evidence that he is qualified so to practice and shall be licensed as hereinafter provided. After the date upon which this chapter becomes effective, it shall be unlawful for any person to practice or to offer to practice engineering or land surveying in this State, or to use the title professional engineer or land surveyor or any other title, sign, card or device in such manner as to tend to convey the impression that such person is practicing engineering or land surveying or is a professional engineer or land surveyor, unless such person is duly licensed under the provisions of this chapter. Every holder of a license shall display it in a conspicuous place in his principal office, place of business or employment.

No corporation, firm, partnership or association shall be granted a license under this chapter; however, certain corporations shall be required to obtain a certificate of authorization as provided pursuant to P.L.1989, c.276 (C.45:8-56 et al.). No corporation, firm, partnership or association shall use or assume a name involving the word "engineers" or "engineering" or any modification or derivative of such terms, unless an executive officer, if a corporation, or a member, if a firm, partnership or association, shall be a licensed professional engineer of the State of New Jersey.

No corporation, firm, partnership or association shall use or assume a name involving the words "surveyors," "land surveyors," "surveying," or "land surveying," or any modification or derivative of such terms, unless an executive officer, if a corporation, or a member, if a firm, partnership, or association, shall be a licensed land surveyor of the State of New Jersey.

No corporation, firm, partnership or association shall practice or offer to practice engineering or land surveying in this State unless the person or persons in responsible

charge of engineering or land surveying work shall be so licensed to practice in this State. The person or persons carrying on the actual practice of professional engineering or land surveying on behalf of or designated as "engineers" or "surveyors" or "professional engineers" or "land surveyors," with or without qualifying or characterizing words, by any such corporations, firms, partnerships or associations, shall be licensed to practice professional engineering or land surveying as provided in this chapter.

Services constituting the practice of professional engineering shall not be rendered or offered through any business association other than a sole proprietorship of a professional engineer, a partnership of professional engineers, a partnership of closely allied professionals including at least one professional engineer, a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.) or a corporation authorized pursuant to P.L.1989, c.276 (C.45:8-56 et al.).

Services constituting the practice of land surveying shall not be rendered or offered through any business association other than a sole proprietorship of a land surveyor, a partnership of land surveyors, a partnership of closely allied professionals including at least one land surveyor, a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.) or a corporation authorized pursuant to P.L.1989, c.276 (C.45:8-56 et al.).

Nothing in this act shall be construed as required licensing for the purpose of practicing professional engineering or land surveying by any person, firm, or corporation upon property owned or leased by such person, firm or corporation, unless the same involves the public safety, public health or public welfare.

45:8-28. Definitions

2. (a) The term "professional engineer" within the meaning and intent of this chapter shall mean a person who by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as hereinafter defined as attested by his license as a professional engineer.

(b) The terms "practice of engineering" or "professional engineering" within the meaning and intent of this chapter shall mean any service or creative work the adequate performance of which requires engineering education, training, and

experience and the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of land and water, engineering studies, and the administration of construction for the purpose of determining compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any engineering project including: utilities, structures, buildings, machines, equipment, processes, work systems, projects, telecommunications, or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. The design of buildings by professional engineers shall be consistent with section 7 of the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-7).

The practice of professional engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment. The provisions of this chapter shall not be construed to prevent or affect the employment of architects in connection with engineering projects within the scope of the act to regulate the practice of architecture and all the amendments and supplements thereto.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer, or through the use of some other title utilizing or including the word engineer, implies that he is a professional engineer; or who represents himself as able to perform, or who does perform any engineering service or work or any other professional service recognized by the board as professional engineering.

Nothing herein shall prohibit licensed architects from providing or offering services consistent with the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.).

(c) The term "engineer-in-training" as used in this chapter shall mean a person who is a potential candidate for license as a professional engineer who is a graduate in an approved engineering curriculum of four years or more from a school or college accredited by the board as of satisfactory standing, and who, in addition, has successfully passed an examination in the fundamental engineering subjects, as defined elsewhere herein.

(d) The term "land surveyor" as used in this chapter shall mean a person who is a professional specialist in the technique of measuring land, educated in the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law, all requisite to the practice of land surveying as attested by his license as a land surveyor.

(e) The term "practice of land surveying" within the meaning and intent of this chapter shall mean any service or work the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law to the act of measuring and locating distances, directions, elevations, natural and man-made topographical features in the air, on the surface of the earth, within underground workings, and on beds of bodies of water for the purpose of determining areas and volumes, and for the establishing of horizontal and vertical control as it relates to construction stake-out, for the monumentation of property boundaries and for the platting and layout of lands and subdivisions thereof and for the preparation and perpetuation of maps, record plats, field notes, records and property descriptions in manual and computer coded form that represent these surveys. The practice of land surveying shall include the establishment and maintenance of the base mapping and related control for land information systems that are developed from the above referenced definition of the practice of land surveying.

For purposes of this subsection, "land information systems" means any computer coded spatial database designed for multi-purpose public use developed from or based on property boundaries.

A person who engages in the practice of land surveying; or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be a land surveyor or professional surveyor; or who represents himself as able to perform any land surveying service or work or any service which is recognized as within the practice of land surveying shall be deemed to practice or offer to practice land surveying.

Nothing in this chapter shall preclude a person licensed by the board as a professional engineer from performing those measurements necessary for the design, construction stake-out, construction and post-construction records of an engineering project, provided that these measurements are not related to property lines, lot lines, easement lines, or right-of-way lines, the establishment of which are required to be

made by a land surveyor.

(f) The term "board" as used in this chapter shall mean the State Board of Professional Engineers and Land Surveyors.

(g) The term "responsible charge" as used in this chapter shall mean the rendering of regular and effective supervision by a competent professional engineer or land surveyor to those individuals performing services which directly and materially affect the quality and competence of the professional services rendered by the licensee. A licensee engaged in any of the following acts or practices shall be deemed not to have rendered regular and effective supervision:

(1) The regular and continuous absence from principal office premises from which professional services are rendered, except for performance of field work or presence in a field office maintained exclusively for a specific project;

(2) The failure to personally inspect or review the work of subordinates where necessary and appropriate;

(3) The rendering of a limited, cursory or perfunctory review of plans or projects in lieu of an appropriate detailed review;

(4) The failure to personally be available on a reasonable basis or with adequate advance notice for consultation and inspection where circumstances require personal availability.

(h) The term "certificate of authorization" shall mean a certificate issued by the board pursuant to this amendatory and supplementary act.

(i) The term "joint committee" shall mean the Joint Committee of Architects and Engineers established pursuant to the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.).

(j) The term "closely allied professional" as used in this chapter shall mean and is limited to licensed architects, professional engineers, land surveyors, and professional planners.

(k) The term "telecommunications" as used in this chapter, shall mean, as it is applied to the practice of engineering, subjects which deal with the generation,

transmission, receiving, and processing of information bearing signals for the purpose of fulfilling a particular communication need. The most common forms of signals are those encountered in voice, image and data transmission. Subjects relevant to telecommunications include but are not limited to: analog and digital circuits, propagation of electromagnetic energy through guided media such as a transmission line, fibers, wave guides, and unguided media such as free space as in broadcast and mobile communication systems, communication theory, including modulation, noise interference, and the interface with computers.

(l) The term "surveyor-in-training" as used in this chapter shall mean a person who is a potential candidate for licensure as a land surveyor, who is a graduate in an approved surveying curriculum of four years or more from a school or college accredited by the board as of satisfactory standing, and who, in addition, has successfully passed an examination in the fundamental surveying subjects, approved by the board pursuant to section 9 of P.L. 1938, c.342 (C.45:8-35).

45:8-29. Examining board

To carry out the provisions of this chapter, there is hereby created an examining board for the licensing of professional engineers and land surveyors, and the certification of engineers-in-training, which board shall consist of ten members, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of P.L. 1971, c. 60 (C. 45:1-2.1 et seq.). Each of the remaining seven members shall be appointed by the Governor of the State of New Jersey, with the advice and consent of the Senate, within sixty days after the passage of this chapter, or as soon as practicable thereafter. The members of said board shall be appointed to serve for a term of five years, one of which shall expire each calendar year. The two members added by this 1985 amendatory act shall be appointed as soon as practicable by the Governor, with the advice and consent of the Senate, one for a term to end April 30 of the third year after appointment and one for a term to end April 30 of the fourth year after appointment. Thereafter, each member shall hold office after the expiration of his term until his successor shall be duly appointed and qualified. A member of the board shall not be eligible to succeed himself more than once, except that the present members of the board shall be eligible to succeed themselves once hereafter. The terms of office of the members of said board shall commence on the first day of May. Vacancies in the membership of the board, however created, shall be filled by appointment of the Governor, with the advice and consent of the Senate, for any unexpired term, and for each five-year term. Notwithstanding anything herein contained, the present members of the State

board shall continue in office as members of said board until their present respective terms expire, except as provided elsewhere herein for removal.

To supervise all necessary administrative work of the board, there is hereby created the position of secretary-director to the board. The board shall appoint such a secretary-director, to serve for a term of five years, at a salary determined by the board. Duties of the secretary-director of the board shall be those defined by the board. The secretary-director of the board shall not be a member of the board.

The board may provide for the creation of additional positions, as deemed necessary to make effective the provisions of this act.

The board shall arrange through lease or otherwise to maintain suitable offices within the State of New Jersey for the conduct of the business of the board.

45:8-30. Board of Professional Engineers, Land Surveyors

Said board, when so appointed, shall be designated and known as the "State Board of Professional Engineers and Land Surveyors."

All persons appointed to the said board shall be citizens of the United States and residents of the State of New Jersey. Appointees, other than the two public members and the State executive department member appointed pursuant to the provisions of P.L. 1971, c. 60 (C. 45:1-2.1 et seq.) and the two appointees added pursuant to this 1985 amendatory act, shall have been licensed as professional engineers in New Jersey for a period of at least five years, at least one member of whom shall also be a licensed land surveyor and the two appointees added pursuant to this 1985 amendatory act and their successors shall have been licensed as professional land surveyors in this State for a period of at least five years.

The Governor may remove any member of the board after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

Each member of the board shall receive \$50.00 for each day of actual service in attending meetings of the board at which business is transacted, and not to exceed \$1,000.00 a year for each member and, in addition, shall be reimbursed for all necessary expenses, incidental to their duties as members of said board, incurred in carrying out the provisions of this chapter.

45:8-31. Oath of members; filing; duty of Attorney General; powers of board; compelling compliance with subpoena

Each member of the examining board before entering upon the duties of his office, shall subscribe to an official oath of office as provided by section 41:1-3 of the Title, Oaths and Affidavits, of the Revised Statutes, which oath shall be filed in the office of the Secretary of State.

The examining board shall be entitled to the services of the Attorney-General in connection with the affairs of the board and the board shall have power to compel the attendance of witnesses, and any member thereof may administer oaths and the board may take testimony and proofs concerning any matters within its jurisdiction.

The board shall adopt and have an official seal.

In carrying into effect the provisions of this chapter, the board may, under the hand of its president and the seal of the board, subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, et cetera, in a case involving the revocation of license or practicing or offering to practice without license. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers or documents, the board may apply ex parte to the Superior Court to compel the person to comply forthwith with the subpoena.

45:8-32. Meetings; officers

Said examining board shall at its annual meeting to be held in May organize by electing a president and vice-president, who shall be members of the board.

The secretary-director shall furnish bond for the faithful performance of his duties in such sum as required by law. Premium for said bond shall be regarded as a proper and necessary expense of the board.

Said board shall meet at least every two months and special meetings may be held at such times as called by the president.

A majority of the voting members of the board shall constitute a quorum and no action of the board shall be taken except upon the affirmative vote of a majority of the members of the entire board.

45:8-33. Itemized account to be kept; report; filing; forwarding to Attorney-General

An itemized account of all receipts and expenditures of the board shall be kept by the said secretary-director and a detailed report thereof, verified by the affidavit of said secretary-director, shall be filed with the Director of Division of Budget and Accounting, Department of the Treasury, within twenty days after the close of the fiscal year. A copy of this report shall be forwarded also to the office of the Attorney-General, as head of the Department of Law and Public Safety.

45:8-34. Records; proceedings of examining board; applicants for licenses; evidence

The examining board shall keep a record of its proceedings and a record of all applicants for license, showing for each the date of application, name, age, education and other qualifications, place of business and place of residence, whether or not an examination was required and whether the applicant was rejected or a certificate of license granted, and the date of such action.

The books and register of the examining board shall be prima facie evidence of all matters recorded therein. A public register showing the names and places of business and residences of all licensed professional engineers and land surveyors and engineers-in-training shall be prepared under the direction of the secretary-director during the month of June of each year; such public register shall be printed and a copy mailed to each licensee and a copy mailed to the clerk of each city, town, township, village, borough, county and other municipal corporation of this State, which public register shall be placed on file in the office of the said clerk.

45:8-35. Applications for license, certificate of registration; fees; qualifications; evidence of qualifications; examination

9. Applications for license as professional engineers shall be on forms prescribed and furnished by the board, shall contain statements under oath, showing the applicant's education and detailed statement of his engineering experience, and shall contain not less than five references, of whom three or more shall be licensed professional engineers having personal knowledge of the applicant's engineering experience.

The application fee for professional engineers shall be set by the board and shall accompany the application.

Applications for license as land surveyors shall be on forms prescribed and furnished by the board, shall contain statements under oath, showing the applicant's education and detailed statement of his land surveying experience, and shall contain not less than five references, of whom three or more shall be licensed land surveyors having personal

knowledge of the applicant's land surveying experience.

The application fee for land surveyors shall be set by the board and shall accompany the application.

Applications for a certificate of registration as "engineer-in-training" shall be on forms prescribed and furnished by the board, shall be accompanied by a fee set by the board and shall contain the names of three references of whom at least one shall be a professional engineer having personal knowledge of the applicant's engineering education, experience or training.

Applications for a certificate of registration as "surveyor-in-training" shall be on forms prescribed and furnished by the board, shall be accompanied by a fee set by the board and shall contain the names of three references of whom at least one shall be a licensed land surveyor having personal knowledge of the applicant's surveying education, experience or training.

All application fees shall be retained by the board.

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for a license as a professional engineer, or as a land surveyor, or for certificate of registration as an engineer-in-training or a surveyor-in-training, to wit:

(1) As a professional engineer:

a. Graduation from a board approved curriculum in engineering of four years or more; a specific record of an additional four years or more of experience in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing all parts of the written examination; or

b. Graduation from a board approved curriculum in engineering technology of four years or more; a specific record of an additional six years or more of experience in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing all parts of the written examination; or

c. Graduation from a board approved curriculum in engineering or engineering technology of four years or more; a specific record of an additional 15 years or more of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing the specialized portion of the written examination which is designated as Part P; or

d. (Deleted by amendment, P.L.1989, c.276.)

e. A certificate of registration, issued by any state or territory or possession of the United States, or of any country, may, in the discretion of the board, be accepted as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer; provided that the minimum requirements for examination and license by the issuing agency in effect at the time of application to the issuing agency, which the applicant satisfied in order to qualify for examination by that issuing agency, are at least comparable to those same minimum requirements of the board which were in effect in this State at that time; and provided that the applicant has not failed any portion of a nationally administered, two-day examination, required by the board, that was taken in order to receive licensure by the issuing agency.

(2) As a land surveyor:

a. (i) (Deleted by amendment, P.L.2019, c.117)

(ii) Effective January 1, 1991, graduation from a board approved curriculum in surveying of four years or more; an additional three years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of that work; and successfully passing all parts of the examination, including the New Jersey State-specific portion of the examination; or

b. (Deleted by amendment, P.L.2019, c.117)

c. (Deleted by amendment, P.L.1977, c.340.)

d. A certificate of registration, issued by any state or territory or possession of the United States, or of any country, may, in the discretion of the board, be accepted as minimum evidence satisfactory to the board that the applicant is qualified for registration as a land surveyor; provided that the minimum requirements for examination and license by the issuing agency in effect at the time of application to the issuing agency, which the applicant satisfied in order to qualify for examination by that issuing agency, are at least comparable to those same minimum requirements of the board which were in effect in this State at that time; and provided that the issuing agency attests to the licensing criteria at the time of the applicant's original licensure in that jurisdiction, and the applicant receives a passing grade on the New Jersey State-specific portion of the current land surveying examination and any portions of a nationally administered two-day examination required by the board not already passed by the applicant.

(3) As an engineer-in-training:

a. Graduation from a board approved curriculum in engineering or engineering technology of four years or more; and successfully passing the fundamentals portion of the written examination which is designated as Part F.

b. (Deleted by amendment, P.L.1989, c.276.)

(4) As a surveyor-in-training: Graduation from a board approved curriculum in land surveying of four years or more; and successfully passing the fundamentals portion of a board approved examination.

Qualifications for professional engineers.

An applicant for license as a professional engineer shall be able to speak and write the English language. All applicants shall be of good character and reputation.

Completion of a master's degree in engineering shall be considered as equivalent to one year of engineering experience and completion of a doctor's degree in engineering shall be considered as equivalent to one additional year of engineering experience.

In considering the qualifications of applicants, engineering teaching experience may be considered as engineering experience for a credit not to exceed two years.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of construction of such work as a foreman or superintendent, or the observation of construction as an inspector or witness shall not be deemed to be experience in engineering work.

Any person having the necessary qualifications prescribed in this chapter to entitle him to a license shall be eligible for such license, although he may not be practicing his profession at the time of making the application.

A quorum of the examining board shall not be required for the purpose of passing upon the issuance of a license to any applicant; provided that no action on any application shall be taken without at least three votes in accord.

Engineering experience of a character satisfactory to the board shall be determined by the board's evaluation of the applicant's experience relative to the ability to design and supervise engineering projects and works so as to insure the safety of life, health and property.

The scope of the examination for professional engineering and methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering projects and works so as to insure the safety of life,

health and property. An examination shall be given for the purpose of determining the qualifications of applicants for license in professional engineering. A candidate failing an examination may apply for reexamination to the extent permitted by regulations of the board. Subsequent examinations will require the payment of fees set by the board. The board shall schedule at least two examinations per year, with dates and places to be determined by the board.

Examinations of applicants for license as professional engineers will be divided into two parts, as follows:

Part F--Fundamentals of Engineering--This examination is intended to assess the applicant's competency in the fundamental engineering subjects and basic engineering sciences, such as mathematics, chemistry, physics, statistics, dynamics, materials science, mechanics of materials, structures, fluid mechanics, hydraulics, thermodynamics, electrical theory, and economics. A knowledge of P.L.1938, c.342 (C.45:8-27 et seq.) is also required.

Part P--Specialized Training--This examination is intended to assess the extent of the applicant's more advanced and specialized professional training and experience especially in his chosen field of engineering.

Applicants for certificates of registration as engineers-in-training shall qualify by satisfactorily passing the fundamentals portion of the written examination.

The scope, time and place of the examinations for applicants for certificates of registration as "engineers-in-training" shall be prescribed by the board. A candidate failing an examination may apply for reexamination to the extent permitted by the regulations of the board. Subsequent examinations will require the payment of fees set by the board.

Qualifications for land surveyors.

An applicant for license as a land surveyor shall be able to speak and write the English language. All applicants shall be of good character and reputation.

Completion of a master's degree in surveying shall be considered as equivalent to one year of surveying experience and completion of a doctor's degree in surveying shall be considered as equivalent to one additional year of surveying experience.

In considering the qualifications of applicants, survey teaching experience may be considered as surveying experience for a credit not to exceed two years.

In determining whether an applicant's experience is satisfactory for licensure, the board shall consider whether the applicant has demonstrated the ability to perform,

manage and supervise field and office surveying activities and works so as to insure the safety of life, health and property.

An examination shall be given for the purpose of determining the qualifications of applicants for license in land surveying. The content of the examination for land surveying and methods of procedure shall be prescribed by the board with emphasis upon the applicant's ability to supervise land surveying projects and works. A candidate failing an examination may apply for reexamination to the extent permitted by regulations of the board. Subsequent examinations will require the payment of fees set by the board. The board shall schedule at least two examinations per year, with dates and places to be determined by the board.

Examinations of applicants for license as land surveyors shall be divided into two parts, as follows:

Part F--Fundamentals of Land Surveying--This examination is intended to assess the applicant's competency in the fundamental surveying subjects and basic surveying sciences, including, but not limited to, mathematics, chemistry, physics, statistics, dynamics, boundary law, real estate law, and economics. A knowledge of P.L.1938, c.342 (C.45:8-27 et seq.) is also required.

Part P--Specialized Training--This examination, and the New Jersey State-specific portion, is intended to assess the extent of the applicant's more advanced and specialized professional training and experience in the field of land surveying.

Applicants for certificates of registration as surveyors-in-training shall qualify by satisfactorily passing the fundamentals portion of the written examination.

The scope, time and place of the examinations for applicants for certificates of registration as "surveyors-in-training" shall be prescribed by the board. A candidate failing an examination may apply for reexamination to the extent permitted by the regulations of the board. Subsequent examinations will require the payment of fees set by the board.

45:8-35.1. Licensed architects may be licensed as professional engineers; examination

Any architect who is duly licensed to practice architecture in this State, provided he has a college degree in a program or curriculum of four years or more, shall be entitled to be licensed to engage in the practice of professional engineering upon application therefor to the State Board of Professional Engineers and Land Surveyors, and upon satisfactorily passing that part of an examination limited solely to specialized training of engineers, and which is now designated as Part P thereof. Such applicant shall be examined, according to the limitation herein provided, at a regularly conducted examination for applicants for license as professional engineer.

45:8-35.2. Continuing professional competency credits required for certification

1. The State Board of Professional Engineers and Land Surveyors shall require each person licensed as a land surveyor, as a condition for biennial certification pursuant to P.L.1938, c.342 (C.45:8-27 et seq.) and P.L.1972, c.108 (C.45:1-7), to complete not more than 24 credits of continuing professional competency relating to the practice of land surveying, as provided in section 2 of this act, during each biennial registration period.

45:8-35.3. Duties of board

2. a. The board shall:

(1) Establish standards for continuing professional competency in land surveying, including the subject matter and content of courses of study, which shall be in conformity with a national model, such as that of the National Council of Examiners for Engineering and Surveying;

(2) Approve educational programs offering credit towards the continuing professional competency in land surveying requirements; and

(3) Approve other equivalent educational programs, including, but not limited to, meetings of constituents and components of land surveying associations and other appropriate professional and technical associations recognized by the board, examinations, papers, publications, technical presentations, teaching and research appointments and technical exhibits, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

b. In the case of education courses and programs, each hour of instruction shall be equivalent to one credit.

45:8-35.4. Board to establish procedures

3. The board shall:

a. Establish procedures for monitoring compliance with the land surveying continuing professional competency requirements; and

b. Establish procedures to evaluate and grant approval to providers of continuing professional competency in land surveying.

45:8-35.5. Board may waive requirements

4. The board may, in its discretion, waive requirements for continuing professional

competency in land surveying on an individual basis for reasons of hardship such as illness or disability, service in the armed forces of the United States of America, retirement of the license, or other good cause.

45:8-35.6. Credits not required for initial registration

5. The board shall not require completion of land surveying continuing professional competency credits for initial registration.

45:8-35.7. Prorating of credits

6. a. The board shall not require completion of land surveying continuing professional competency credits for any certification periods commencing within 12 months of the effective date of this act.

b. The board shall require completion of land surveying continuing professional competency credits on a pro rata basis for any certification periods commencing more than 12 but less than 24 months following the effective date of this act.

45:8-35.8. Proof of completion of credits

7. The board shall accept as proof of completion of continuing professional competency program credits documentation submitted by a person licensed as a land surveyor or by any entity offering a continuing professional competency program approved by the board pursuant to section 2 of this act.

45:8-35.9. Failure to complete professional competency requirements; penalty

8. Any person who fails to complete the continuing professional competency requirements established pursuant to section 1 of this act shall be liable to a civil penalty of not more than \$500 or additional hours of continuing professional competency in land surveying, or both, as imposed by the board, for a first offense. A second or subsequent offense by a licensee shall be considered professional misconduct pursuant to the provisions of P.L.1938, c.342 (C.45:8-27 et seq.) and P.L.1978, c.73 (C.45:1-14 et seq.).

45:8-35.10. Carryover of credits

9. The board shall allow a land surveyor to carry over a maximum of eight continuing professional competency credits to the next biennial certification period.

45:8-35.11 Continuing education required for licensure.

1. The State Board of Professional Engineers and Land Surveyors shall require each person licensed as a professional engineer, as a condition for biennial licensure

pursuant to P.L.1938, c.342 (C.45:8-27 et seq.) and P.L.1972, c.108 (C.45:1-7), to complete not more than 24 credits of continuing professional competency relating to the practice of professional engineering, as provided in section 2 of this act, during each biennial registration period.

45:8-35.12 Duties of board relative to subject matter, contents.

2. a. The board shall:

(1) Establish standards for continuing professional competency in professional engineering, including the subject matter and content of courses of study, which shall be in conformity with a national model, such as that of the National Council of Examiners for Engineering and Surveying;

(2) Approve educational programs offering credit towards the continuing professional competency in engineering requirements; and

(3) Approve other equivalent educational programs, including, but not limited to, meetings of constituents and components of professional engineering associations and other appropriate professional and technical associations when an engineering topic is presented as a principal part of the program, examinations, papers, publications, technical presentations, teaching and research appointments, technical exhibits, management, leadership or ethics courses, and correspondence courses on engineering topics where a final examination is required and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

b. In the case of education courses and programs, each hour of instruction shall be equivalent to one credit.

c. Two of the 24 credits of continuing professional competency required pursuant to section 1 of this act shall be in professional practice ethics..

45:8-35.13 Procedures established by board.

3. The board shall:

a. Establish procedures for monitoring compliance with the professional engineering continuing professional competency requirements; and

b. Establish procedures to evaluate and grant approval to providers of continuing professional competency in professional engineering.

45:8-35.14 Discretionary waiver of requirements.

4. The board may, in its discretion, waive requirements for continuing professional competency in professional engineering on an individual basis for reasons

of hardship such as illness or disability, service in the armed forces of the United States of America, retirement of the license, or other good cause.

45:8-35.15 Inapplicability to initial registration.

5. The board shall not require completion of professional engineering continuing professional competency credits for initial registration.

45:8-35.16 Commencement of continuing education requirements.

6. a. The board shall not require completion of professional engineering continuing professional competency credits for any licensure periods commencing within 12 months of the effective date of this act.

b. The board shall require completion of professional engineering continuing professional competency credits on a pro rata basis for any licensure periods commencing more than 12 but less than 24 months following the effective date of this act.

45:8-35.17 Proof of completion.

7. The board may accept as proof of completion of continuing professional competency program credits:

a. documentation submitted by a person licensed as a professional engineer or by any entity offering a continuing professional competency program approved by the board pursuant to section 2 of this act; or

b. any other proof acceptable to the board.

45:8-35.18 Requirements for professional engineer, land surveyor.

8. Notwithstanding the provisions of section 1 of P.L.1993, c.39 (C.45:8-35.2) and section 1 of this act, the board shall require each person licensed as both a professional engineer and a land surveyor, as a condition for biennial certification, to complete not less than 36 credits of continuing professional competency relating to the practice of professional engineering and land surveying, with not less than 12 credits to be completed in professional engineering and not less than 12 credits to be completed in land surveying.

45:8-35.19 Carryover of credits.

9. The board shall allow a professional engineer to carry over a maximum of 12 continuing professional competency credits to the next biennial licensure period.

45:8-36. Certificates

10. Certificates. The board shall issue a license certificate upon payment of the application fee as provided in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter, and who has paid the license fee to cover licensure for the year or fraction thereof in which such license is issued. In the case of a licensed professional engineer the certificate shall authorize the practice of the applicant as a "professional engineer" and in the case of a licensed land surveyor as a "land surveyor," or as "professional engineer and land surveyor" when the applicant qualifies in both classifications. Certificates of license shall show the full name of the licensee, shall have a license number and shall be signed by the president and the secretary-director of the board under the seal of the board. The issuance of a license certificate by this board shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed professional engineer or a licensed land surveyor, or as both as the case may be, while said certificate remains unrevoked, unexpired, or is not on a retired status list.

Each professional engineer or land surveyor shall upon receipt of license certificate, obtain a seal of a design authorized by the board, bearing his name, license number and the legend "Licensed Professional Engineer," "Licensed Land Surveyor," or "Licensed Professional Engineer and Land Surveyor," as the case may be. Plans, specifications, plats, and reports issued by persons authorized under this chapter shall be sealed with said seal, during the life of the licensee's certificate, but it shall be unlawful for anyone to stamp or seal any documents with said seal after the certificate of the licensee named thereon has expired, has been revoked, or is on a retired status list, unless said certificate shall have been renewed, reissued or reinstated from retirement status as provided pursuant to section 3 of P.L.1995, c.36 (C.45:8-36.2). The exact method of fulfilling the requirement as to the sealing of documents shall be regulated by the board.

All professional engineers licensed by this board prior to the passage of this chapter, shall continue to practice under the various classifications heretofore granted and within the branches of engineering indicated or may, upon application therefor, and the payment of a fee of \$5.00 receive a new certificate under the title "professional engineer"; provided, said professional engineer presents evidence satisfactory to the board of his qualifications to practice in the field of general engineering comprehended in the title "professional engineer."

All license certificates shall be recorded by the board in the office of the Secretary of State, in a book kept for that purpose and any recording fee as may be provided by law

shall be paid by the applicant before the license certificate is delivered.

The examining board shall be empowered to issue a certificate of registration as "Engineer-in-Training" or "Surveyor-in-Training," as the case may be, to an applicant who meets the qualifications outlined elsewhere herein.

An applicant who meets the requirements of this act shall receive a certificate of registration as "Engineer-in-Training," or "Surveyor-in-Training," whichever is applicable, which certificate may remain in effect for a period of 10 years from the date of issuance.

45:8-36.1. Use of title "professional land surveyor"

5. Any person licensed as a land surveyor pursuant to the provisions of P.L.1938, c.342 (C.45:8-27 et seq.) may use the title "professional land surveyor" in the scope of the practice of land surveying.

45:8-36.2. Retirement procedures; resuming practice after retirement

3. A licensed professional engineer or land surveyor who has been licensed for a minimum of 25 years and is 62 years of age or older may apply to the board for retirement license status on a form furnished by the board. Upon receipt of the completed retired status application form and the board's determination that the licensee meets these requirements, the board shall declare the licensee retired and shall place the licensee on a retired status list. A person whose license is retired shall not offer or practice professional engineering or land surveying, or both, as the case may be, within the State.

A person on the retired status list who wants to resume the practice of professional engineering or land surveying, or both, as the case may be, shall make application in the manner determined by the board for reinstatement of licensure to the board as a professional engineer or land surveyor, as the case may be, and pay the prescribed reinstatement fee as required by regulation of the board. Any person who has been on the retired status list for five or more years shall furnish the board with satisfactory evidence of current knowledge, competency and skill in the practice of professional engineering or land surveying as required by law or any regulation of the board.

45:8-36.3. Waiver of corner marker requirements for certain land surveying work

1. a. When a property survey is performed, appropriate corner markers shall be set either by a licensed land surveyor or under the supervision of a licensed land surveyor. These markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible, or unless a written waiver

signed by the ultimate user is obtained and retained for a period of not less than six years by the surveyor performing the survey.

b. Whenever a written waiver to omit corner markers is obtained pursuant to subsection a. of this section, the following notation shall be included on the plat or plan of survey:

"A written Waiver and Direction Not to Set Corner Markers has been obtained from the ultimate user pursuant to P.L.2003, c.14 (C45:8-36.3) and N.J.A.C. 13:40-5.1(d)."

c. Failure to comply with the provisions of P.L.2003, c.14 (C45:8-36.3) shall subject the licensee to a penalty of not greater than \$2,500 for each violation, to be imposed pursuant to section 9 of P.L.1978, c.73 (C.45:1-22).

45:8-37. Expiration and renewal of licenses; fees; revocation on failure to renew license

License certificates shall expire on the thirtieth day of April following issuance, renewal or reinstatement and shall become invalid on that day unless renewed. Licensees shall apply for renewal on or before the thirtieth day of April of each year. It shall be the duty of the secretary of the board to notify all persons licensed under this chapter of the date of the expiration of their certificates and the amount of the fee that shall be required for their renewal for one year; such notice shall be mailed to each licensee at his post-office address known to the board at least one month in advance of the date of expiration of said certificate. Renewal of any certificate issued under this chapter may be effected at any time during the month of April by the payment of the fee of five dollars (\$5.00).

The failure on the part of the licensee to renew his certificate annually in the month of April as required shall not deprive such person of the right of renewal during the ensuing year but the fee to be paid if the license be renewed in any month during the current year subsequent to April shall be seven dollars (\$7.00) instead of five dollars (\$5.00); and, if the license certificate be not renewed in the current year, the licensee shall pay a reinstatement fee of ten dollars (\$10.00) plus five dollars (\$5.00) for each year in which the licensee is in arrears. One notice to the licensee, by mail, on or before April fifteenth, addressed to his last post-office address known to the board, informing him of his failure to have applied for a renewal of his license certificate, shall constitute legal notification of such delinquency by the board.

The failure on the part of the licensee to renew his certificate within one year from the date of the expiration of said license certificate will automatically revoke such license certificate and the right of the person to practice thereafter shall be restored only upon the payment of the ten dollar (\$10.00) reinstatement fee plus all arrearages. Continuing to practice as a "professional engineer" or as a "land

surveyor" after the expiration of his license shall render the person so doing liable to all the penalties prescribed for practicing without a license certificate.

45:8-39. Practice without license and other violations; penalties; actions for penalties

13. a. Any person who, hereafter, is not legally authorized to practice professional engineering or land surveying in this State according to the provisions of this act, who shall so practice or offer so to practice in this State, except as provided in section 14 of this act, or any person presenting or attempting to file as his own the certificate of license of another, or who shall give false or forged evidence of any kind to the board, or to any member or representative thereof, in obtaining a certificate of license, or who shall falsely impersonate another licensed practitioner of like or different name, or who shall use or attempt to use an expired certificate of license, an unexpired and revoked certificate of license, or a certificate of license which is on a retired status list, or who shall use either the title "Engineer-in-Training" or "Surveyor-in-Training" without holding a valid certificate of registration issued by the board, or who shall otherwise violate any of the provisions of this act, shall be subject to a penalty of not more than \$200.00 for the first offense and not more than \$500.00 for each and every subsequent offense. The penalties provided for by this section shall be sued for and recovered in civil actions by the State Board of Professional Engineers and Land Surveyors.

b. Pursuant to the provisions of the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.) the board:

(1) May refer any complaint, question or controversy involving the application of that act to the joint committee.

(2) Shall take no disciplinary action against any licensed architect alleged to have engaged in a violation of that act or the unlicensed practice of engineering.

(3) Shall refer a request for a declaratory ruling to the joint committee.

(4) Shall provide any and all documents in its possession regarding any matter referred to the joint committee.

(5) Shall, when necessary and appropriate, exercise the investigation or enforcement powers conferred by law to aid and assist the joint committee in its functions.

(6) Shall, consistent with that act, discipline any professional engineer who, or business association authorized to offer engineering services which, violates that act. Such a violation shall be deemed professional misconduct. Any violation of that act by an unlicensed individual or unauthorized business association shall be disciplined by the New Jersey State Board of Architects pursuant to the provisions of P.L.1978, c.73

(C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of architecture. However, the design of an engineering work by an unlicensed individual or unauthorized business association shall be disciplined by the State Board of Professional Engineers and Land Surveyors pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of engineering.

c. No person, firm, partnership, association or corporation shall bring or maintain any action in the courts of this State for the collection of compensation for services constituting the practice of engineering or land surveying without alleging and proving that he was duly licensed in accordance with this chapter at the time the alleged cause of action arose.

d. The Superior Court shall have jurisdiction of actions for penalties under this act.

45:8-40. Persons exempt

The following shall be exempted from the provisions of this chapter:

(1) A person not a resident of and having no established place of business in this State, practicing or offering to practice herein professional engineering or land surveying within the meaning and intent of this chapter, when such practice does not exceed in the aggregate 30 consecutive days in any calendar year; provided, such person is legally qualified by license to practice said professional engineering or land surveying in any State or country in which the requirements and qualifications for a certificate of license are at least comparable to those specified in this chapter.

However, no final plans or reports may be submitted under this provision.

(2) A person not a resident of and having no established place of business in this State, or who has recently become a resident thereof, practicing or offering to practice herein for more than 30 days in any calendar year professional engineering or land surveying, if he shall have filed with the board an application for a certificate of license and shall have paid the fee required by this chapter; provided, that such a person is legally qualified to practice said professional engineering or land surveying in any State or country in which the requirements and qualifications for obtaining a license are at least comparable to those specified in this chapter. Such exemption shall continue only for such time as the board requires for the consideration of the application for license certificate.

(3) An employee or a subordinate of a person holding a license under this chapter or an employee of a person exempted from license by subsections (1) and (2) of this section; provided, this practice does not include responsible charge of design or supervision.

(4) Officers and employees of the Government of the United States while engaged within this State in the practice of professional engineering or land surveying, for said government.

(5) The practice of engineering or land surveying solely as an officer or employee of a corporation engaged in interstate commerce as defined in an act of Congress entitled "Act to regulate commerce," approved February 4, 1887, and as amended, unless the same affects public safety or health.

45:8-41. Licensed engineers and surveyors on public contracts or works required

Hereafter no county, city, town, township, village, borough or other municipal corporations or other political subdivisions in the State shall engage in the design, construction or maintenance of any public work involving professional engineering for which plans, specifications and estimates have not been made by and the construction and maintenance supervised by a licensed professional engineer or a registered architect, nor shall any county, city, town, township, village, borough or other municipal corporation or other political subdivision in the State employ any person to perform work involving land surveying except a licensed land surveyor.

45:8-42. Employment of licensed engineers by governmental departments

No department, institution, commission, board or body of the State Government, or of any political subdivision thereof shall designate, appoint or employ an engineer or any person to be in responsible charge of professional engineering work other than a duly qualified professional engineer who has been licensed by the State of New Jersey, prior to the designation, appointment or employment by such department, institution, commission, board or body of the State Government, or any political subdivision thereof.

Notwithstanding anything in this chapter to the contrary no professional engineer licensed in this State prior to the passage of this chapter and holding an appointment by the State or by any department, institution, commission, board or body of the State Government, or any political subdivision thereof, shall be deprived of the right of reappointment to the same office or position or appointment to any other office or position requiring similar qualifications.

45:8-43. Filing of name of engineer engaged by governmental departments; employment of engineers and land surveyors

The clerk of such department, institution, commission, board or body of the State

Government or of any political subdivision thereof shall file with the secretary-director of the State Board of Professional Engineers and Land Surveyors the name of any engineer designated, appointed or employed, within 30 days after appointment. Where professional engineers or land surveyors are employed, subject to the provisions of the civil service law, the appointment of any such person shall be understood to mean and include appointment after such person has been certified as having satisfactorily passed a civil service examination. No person, firm, association or corporation engaged in engineering or land surveying, shall employ an engineer or land surveyor, in responsible charge of any work, within the meaning and intent of this act, other than a duly qualified professional engineer or land surveyor, who has been licensed pursuant to the provisions of this chapter, prior to such employment by the person, firm, association or corporation so engaged in engineering or land surveying; provided, however, that nothing in this chapter shall apply to any public utility as defined in chapter 2 of Title 48 of the Revised Statutes, or any employee thereof or to any improvement or proposed improvement made by any such public utility or by any employee of or any contractor or agent for said public utility.

Nothing in this chapter shall apply to a corporation or any of its affiliated companies any of which are in the field of telecommunications or any employee thereof where either said corporation or any of its affiliated companies is subject to the jurisdiction of the State Board of Public Utilities or the Federal Communications Commission.

Nothing in this chapter shall apply to a corporation in the field of telecommunications, or to its affiliates, or any employees thereof in which the primary business is research and technical development manufacturing or product design.

45:8-44.1. Authority of land surveyors to go on, over and upon lands of others during reasonable hours

A person licensed to practice land surveying as provided in P.L.1938, c. 342 (C. 45:8-27 et seq.) and any of his agents, servants or employees under his direction who are necessary to make a land survey shall have the authority to go on, over and upon lands of others during reasonable hours when necessary to make land surveys if:

a. The licensed professional land surveyor has made a reasonable attempt, as defined in this section, to notify the owner of the land and, in the case of a lease, the lessee thereof, of his desire to enter on, over and upon the owner's or lessee's land to make a land survey and, the attempt having failed, the licensed professional land surveyor has given written notice, seven days prior to the proposed entry, to the municipal police department of the municipality in which the land is located of his intention to enter, containing the names, addresses, and telephone numbers of those who propose to enter the land and the date, time, duration, and location of the proposed entry; and,

b. The land or any part thereof, to which entry is sought, is not enclosed by a

constructed or natural barrier which is at least 6 feet in height or is not posted with signs or notices which prohibit trespassing and contain the name and address of the owner or lessee of the land;

c. As used in this section, a "reasonable attempt" to notify an owner or lessee means: an attempt to seek acknowledgment of the owner of the land and, in the case of a lease, the lessee thereof, by certified mail, return receipt requested, the attempt to be made a second time if unsuccessful the first time and a third time if unsuccessful the second time, each attempt to be made on a separate business day.

45:8-44.2. Entry not trespass; immunity from arrest or civil action

Any entry under the right granted in this act shall not constitute trespass nor shall the licensed professional land surveyor or his agents, servants or employees be liable to arrest or civil action by reason of the entry.

45:8-44.3. Destruction, injury or damage to land; prohibition; liability

Nothing in this act shall be construed as giving the licensed professional land surveyor or his agents, servants or employees any right to destroy, injure or damage the land or any person or property on the land of another. A licensed professional land surveyor or his agents, servants or employees shall be liable for any such destruction, injury or damage which he is found to have caused to such persons, property or land.

45:8-44.4. Nonliability of owner or lessee of land

Neither the owner of the land nor the lessee thereof shall be liable to a licensed professional land surveyor or his agents, servants or employees or any other person for any destruction, injury or damage, which was not willfully or maliciously done by the owner or lessee, to property or persons resulting from the licensed professional land surveyor or his agents, servants or employees going on, over and upon such lands under the provisions of this act.

45:8-44.5. Inapplicability of act to lands traversed by operating railroad

This act shall not apply to lands traversed by an operating railroad.

45:8-45. Certificate and seal of licensed engineer, surveyor or architect on plans and specifications on public work

No department, institution, commission, board or body of the State Government, or any political subdivision thereof, being the depository or having the custody of any plan

or specification involving professional engineering, shall receive or file any such plan or specification unless there is affixed thereto the seal of a professional engineer licensed pursuant to the provisions of this chapter, or the seal of a registered architect thereon nor receive or file any plan involving land surveying unless there is affixed thereto the seal of a land surveyor licensed pursuant to this chapter.

45:8-47. Effect on other professions

This chapter shall not be construed to affect or prevent the practice of any other legally recognized profession. Nothing in this act shall be construed as prohibiting, regulating or interfering with persons duly licensed under any laws of this State in the operation and maintenance of equipment and in the supervision of operation of steam power plants, portable machinery and equipment, and refrigeration plants, or from engaging in such engineering activities as may be incident to such operating, maintenance or supervision as is customarily a part of the services rendered by such licensed persons in the course of their employment.

45:8-48. Partial invalidity; construction of chapter

The provisions of this chapter are severable, and if any of the provisions hereof are held unconstitutional the decision shall not be construed to impair any other provisions of this chapter. It is hereby declared as the legislative intent that this chapter would have been adopted had such unconstitutional provisions not been included herein.

45:8-49. Repealer

Chapter eight of Title 45 of the Revised Statutes is hereby repealed. All acts and parts of acts inconsistent herewith be and the same are hereby repealed and this act shall take effect immediately.

45:8-56. Certificate of authorization

The board shall issue a certificate of authorization to certain corporations and those corporations shall be authorized to offer professional engineering and land surveying services or both, as follows:

- a. No corporation shall offer to provide engineering services in this State unless issued a certificate of authorization pursuant to this amendatory and supplementary act. This subsection shall not apply to a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.).
- b. No corporation shall offer to provide land surveying services in this State unless issued a certificate of authorization pursuant to this act. This subsection shall not apply to a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.).

The certificate of authorization shall designate a New Jersey licensee or licensees who are in responsible charge of the engineering or land surveying activities and decisions of the corporation. All final drawings, papers or documents involving the practice of engineering or the practice of land surveying, when issued by the corporation or filed for public record, shall be signed and sealed by the New Jersey licensee who is in responsible charge of the work.

45:8-57. Contents of application; biennial renewal fee

Prior to the issuance of a certificate of authorization, a corporation shall file with the board an application, on forms designated by the board, listing, where applicable, the name and address of the corporation and its satellite offices, and the name, address and signature of all officers, corporate board members, directors, principals and any licensees who shall be in responsible charge of the practice of engineering or the practice of land surveying or both, through the corporation, together with such other information as may be required by the board to ensure compliance with its regulations. The same information shall accompany the biennial renewal fee. A change in any of this information shall be reported to the board within 30 days after the effective date of that change.

45:8-58. Powers of board

The board shall have the authority to review the professional conduct of any corporation authorized to offer engineering or land surveying services or both under the provisions of P.L.1989, c.276 (C.45:8-56 et al.). In order to implement those provisions, the board may:

- a. Establish by regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) a biennial renewal fee for the certificate of authorization.
- b. Suspend, revoke, or refuse to renew the certificate of authorization of any corporation whose agent, employees, directors or officers violate, or cause to be violated, any of the provisions of P.L.1989, c.276 (C.45:8-56 et al.) or chapter 8 of Title 45 of the Revised Statutes pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.).
- c. Adopt such rules and regulations as required to carry out the provisions of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

45:8-59. Records to establish regular, effective supervision

A licensee shall maintain such records as are reasonably necessary to establish that the licensee exercised regular and effective supervision of professional services of which such licensee was in responsible charge.

45:8-60. Responsibility for acts of agents, employees, officers

No corporation shall be relieved of responsibility for the conduct or acts of its agents, employees or officers by reason of compliance with the provisions of P.L.1989, c.276 (C.45:8-56 et al.).

NEW JERSEY ADMINISTRATIVE CODE: TITLE 13. LAW AND PUBLIC SAFETY, CHAPTER 40. STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Subchapter 1. Purpose and Scope; Definitions

§ 13:40-1.1 Purpose

The purpose of this chapter is to regulate the practices of professional engineering, professional land surveying and home inspection in the State of New Jersey pursuant to N.J.S.A. 45:8-27 et seq.

§ 13:40-1.2 Scope

This chapter shall apply to all applicants seeking licensure as professional engineers, professional land surveyors and/or home inspectors and all licensees practicing professional engineering, professional land surveying and/or home inspecting in the State of New Jersey.

§ 13:40-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"ABET" means the Accreditation Board for Engineering and Technology.

"Advertisement" means any communication to the public including, but not limited to, newspaper, periodical, journal, flyer, brochure, telephone directory, billboard, sign (other than a sign used only for identification purposes at the business premises), radio, telephone for the purpose of solicitation, television, Internet, or any other print or electronic media in which engineering or land surveying services are offered or by which the availability of engineering or land surveying services is made known.

"Board" means the State Board of Professional Engineers and Land Surveyors.

"Certificate of Authorization" means a certificate issued by the Board to a general business corporation or a limited liability company to allow the practice of professional engineering and/or professional land surveying pursuant to N.J.S.A. 45:8-56 and N.J.A.C. 13:40-10.

"Closely allied professionals" means and is limited to licensed architects, professional engineers, professional land surveyors, professional planners and licensed landscape architects pursuant to N.J.S.A. 45:8-28(j) and 45:4B-3.

"Electronic transmission" means the transmission of electronic data files from one electronic device to another. The term includes manual delivery of electronic data storage media from one person or entity to another.

"Engineer" or "professional engineer" means a person who has been duly licensed as a professional engineer by the Board.

"Engineering," "professional engineering" or "practice of engineering" means any service or creative work the adequate performance of which requires engineering education, training and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of land and water, engineering studies and the administration of construction for the purpose of determining compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any engineering project including: utilities, structures, buildings, machines, equipment, processes, work systems, projects, telecommunications, or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. The practice of professional engineering does not include the work ordinarily performed by persons who operate or maintain machinery or equipment.

"Engineer-in-training" means a person who is registered as an engineer-in-training by the Board.

"Joint Committee" means the Joint Committee of Architects and Engineers established pursuant to the Building Design Services Act, N.J.S.A. 45:4B-1 et seq.

"Land information systems" means any computer coded spatial database designed for multi-purpose public use developed from or based on property boundaries.

"Land surveying" or "surveying" or "practice of land surveying" means any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law to the act of measuring and locating distances, directions, elevations, natural and man-made topographical features in the air, on the surface of the earth, within underground workings, and on beds of bodies of water for the purpose of determining areas and volumes, and for the establishing of horizontal and vertical control as it relates to construction stake-out, for the monumentation of property boundaries and for platting and layout of lands and subdivisions thereof and for the preparation and perpetuation of maps, record plats, field notes, records and property descriptions in manual and computer coded form that represents these surveys. The practice of land surveying includes the establishment and maintenance of the base mapping and related control for land information systems that are developed from the practice of land surveying.

"Land surveyor" or "surveyor" means a person who has been duly licensed as a professional land surveyor by the Board.

"License" means official documents issued by the Board to an individual attesting to the fact that the individual has met the minimum requirements to practice professional engineering or professional land surveying in the State of New Jersey.

"Limited liability company," "LLC" or "L.L.C." means a business entity organized in compliance with the Limited Liability Company Act, N.J.S.A. 42:2B-1 et seq., to engage in and carry on any lawful business, purpose or activity that combines the attributes of both a corporation and a partnership and provides the limited liability generally associated with a corporation and the Federal tax treatment of a partnership.

"Limited liability partnership," "LLP" or "L.L.P." means an association of two or more persons to carry on as owners of a business for profit, which partnership is formed pursuant to an agreement governed by the law of New Jersey, is registered pursuant to N.J.S.A. 42:1-44 and is in compliance with N.J.S.A. 42:1-45.

"NCEES" means the National Council of Examiners for Engineering and Surveying.

"Person" means any individual or any business association or entity.

"Professional business entity" means a sole proprietorship of a licensed professional engineer or professional land surveyor; a partnership, including a limited liability

partnership, of licensed professional engineers and/or professional land surveyors; a partnership, including a limited liability partnership, of closely allied professionals, including at least one licensed professional engineer or licensed professional land surveyor; a professional service corporation of persons providing closely allied professional services as defined by N.J.S.A. 14A:17-3, including at least one licensed engineer or licensed professional land surveyor, established pursuant to the Professional Service Corporation Act, N.J.S.A. 14A:17-1 et seq.; or a limited liability company or a corporation either of which is required to hold a Certificate of Authorization from the State Board of Professional Engineers and Land Surveyors pursuant to N.J.A.C. 13:40-10.

"Seal" means a digital or impression type seal meeting the requirements of N.J.A.C. 13:40-8.1A and affixed to a document by a licensee.

"Signature" means a digital or handwritten signature of a licensee affixed to a document in accordance with N.J.A.C. 13:40-8.1A.

"Surveyor-in-training" means a person who is registered as a surveyor-in-training by the Board.

"Telecommunications" means subjects which deal with the generation, transmission, receiving, and processing of information bearing signals for the purpose of fulfilling a particular communication need. The most common forms of signals are those encountered in voice, image, and data transmission. Subjects relevant to telecommunications include but are not limited to: analog and digital circuits, propagation of electromagnetic energy through guided media such as a transmission line, fibers, wave guides, and unguided media such as free space as in broadcast and mobile communication systems, communication theory, including modulation, noise interference, and the interface with computers.

Subchapter 2. Licensure Requirements and Application Processes

§ 13:40-2.1 Engineers-in-training: eligibility requirements and application process

(a) To be eligible for a certificate of registration as an engineer-in-training, an applicant:

1. Shall demonstrate graduation from a program with a bachelor's degree in engineering that is accredited by the Engineering Accreditation Commission of ABET, Inc., or graduation from a program with a bachelor's degree in engineering technology that is accredited by the Technology Accreditation Commission of ABET, Inc.

- i. An applicant with a degree from a college or university that is not accredited by ABET shall obtain, at his or her own expense, and submit to the Board, a detailed evaluation of his or her degree from a credential evaluation service approved by the Board or from a credential evaluation service chosen by the applicant, which the Board shall have the discretion to accept;

2. Shall demonstrate passage of Part F--Fundamentals of Engineering, which may be waived by the Board pursuant to N.J.A.C. 13:40-2.5; and

3. Seeking credit for military education, training, or experience shall follow the procedure set forth in N.J.A.C. 13:40-2.6.

(b) An applicant for a certificate of registration as an engineer-in-training shall have the following submitted:

1. A completed and notarized application, which includes:

- i. Proof of education verified by the submission of an official transcript, sent to the Board by the institution or institutions at which the applicant studied, indicating that the applicant satisfied the educational requirements in either engineering or engineering technology. An applicant may satisfy this requirement if he or she submits an NCEES record that includes verification of education acceptable to the Board; and

- ii. A minimum of three references from persons who have personal knowledge of the applicant's engineering education, experience, or training, one of whom shall be a licensed professional engineer in the United States. References from relatives of the applicant or current Board members shall not be accepted. An applicant may satisfy this requirement by submitting an NCEES record that includes verification of references acceptable to the Board; and

2. The application fee set forth at N.J.A.C. 13:40-6.1(a)1.

(c) The applicant shall be responsible for verifying the receipt by the Board of all required materials listed in (b)1 and 2 above.

§ 13:40-2.2 Professional engineers: eligibility requirements and application process

(a) To be eligible for licensure as a professional engineer, an applicant:

1. Shall demonstrate graduation from a program with a bachelor's degree in engineering that is accredited by the Engineering Accreditation Commission of ABET, Inc., or graduation from a program with a bachelor's degree in engineering technology that is accredited by the Technology Accreditation Commission of ABET, Inc.;
 - i. An applicant with a degree from a college or university that is not accredited by ABET shall obtain, at his or her own expense, and submit to the Board a detailed evaluation of his or her degree from a credential evaluation service approved by the Board or from a credential evaluation service chosen by the applicant, which the Board will have the discretion to accept;
2. Shall demonstrate passage of Part F--Fundamentals of Engineering, which may be waived by the Board pursuant to N.J.A.C. 13:40-2.5;
3. Shall demonstrate passage of Part P--Principles and Practice of Engineering;
4. Shall demonstrate four years of professional experience for graduates of engineering programs or six years of professional experience for graduates of engineering technology programs, under the regular and effective supervision of a licensed professional engineer consistent with the requirements of N.J.S.A. 45:8-28(b), two years of which shall be obtained in the United States. Professional experience should demonstrate to the Board that the applicant is competent to design and supervise engineering projects and works to insure the safety of life, health, and property.
 - i. Experience prior to graduation from a program pursuant to (a)1 above shall be evaluated by the Board on a case-by-case basis, if the experience is gained under the regular and effective supervision of a licensed professional engineer and if the applicant has passed the appropriate technical courses needed to perform the work experience.

ii. An applicant who has completed a master's or doctorate degree in engineering may obtain credit for one year of the required professional experience. An applicant who completed both master's and doctorate degrees may obtain credit for two years of the required professional experience.

(1) If any portion of the curriculum completed by the applicant as part of a master's or doctorate degree, or both, is required to be considered by the Board in order for the applicant to meet the minimum education standard required for licensure, the applicant shall not also receive experience credit for such education.

iii. Teaching experience may substitute for up to two years of engineering experience. The teaching experience shall be in engineering or engineering-related courses taught in the junior or senior years or in a graduate program at a college or university offering an engineering program of four years or more acceptable to the Board; and

5. Seeking credit for military education, training, or experience shall follow the procedure set forth in N.J.A.C. 13:40-2.6.

(b) An applicant for the Principles and Practice of Engineering examination or licensure as a professional engineer must have the following submitted:

1. A completed and notarized application, which includes:

i. A description of professional experience pursuant to (a)4 above. An applicant may satisfy this requirement if he or she submits an NCEES record that includes a verification of experience acceptable to the Board;

ii. Proof of education verified by the submission of an official transcript, sent to the Board by the institution or institutions at which the applicant studied, indicating that the applicant satisfied the educational requirements in either engineering or engineering technology. An applicant may satisfy this requirement if he or she submits either an NCEES record that includes verification of education acceptable to the Board or an engineer-in-training certificate issued by the Board pursuant to N.J.A.C. 13:40-2.1;

iii. Proof of passage of Part F--Fundamentals of Engineering, unless the Board approved an applicant's waiver pursuant to N.J.A.C. 13:40-2.5. An applicant may satisfy this requirement if he or she submits either an

NCEES record that includes verification of the passage of the examination or an engineering-in-training certificate issued by the Board pursuant to N.J.A.C. 13:40-2.1;

iv. An applicant who has passed Part P--the Principles and Practices of Engineering shall submit proof of passage of the examination. An applicant may meet this requirement if he or she submits an NCEES record that includes verification of passage; and

v. A minimum of five references from persons who have personal knowledge of the applicant's experience or training, three of whom shall be licensed professional engineers in the United States. References must be included from professional engineers in responsible charge of the work constituting the minimum experience required for licensure. Special circumstances may be considered by the Board at the time of application in such cases where a licensed professional engineer in responsible charge of the work being claimed by the applicant is not available. An applicant may satisfy this requirement by submitting an NCEES record that includes verification of references acceptable to the Board;

2. The application fee set forth in N.J.A.C. 13:40-6.1(a)1; and

3. The applicant shall be responsible for verifying the receipt by the Board of all required materials listed in (b)1 and 2 above.

§ 13:40-2.3 Surveyors-in-training: eligibility requirements and application process

(a) To be eligible for a certificate of registration as a land surveyor-in-training, an applicant:

1. Shall demonstrate graduation from a program with a bachelor's degree in land surveying that is accredited by the Technology Accreditation Commission of ABET, Inc.

i. An applicant with a degree from a college or university that is not accredited by ABET shall obtain, at his or her own expense, and submit to the Board, a detailed evaluation of his or her degree from a credential evaluation service approved by the Board or from a credential evaluation service chosen by the applicant, which the Board will have the discretion to accept;

2. Shall demonstrate passage of Part F--Fundamentals of Land Surveying; and
3. Seeking credit for military education, training, or experience shall follow the procedure set forth at N.J.A.C. 13:40-2.6.

(b) An applicant for a certificate of registration as a land surveyor-in-training shall have the following submitted:

1. A completed and notarized application, which includes:
 - i. Proof of education verified by the submission of an official transcript, sent to the Board by the institution or institutions at which the applicant studied, indicating that the applicant satisfied the educational requirements in land surveying. An applicant may satisfy this requirement if he or she submits an NCEES record that includes verification of education acceptable to the Board; and
 - ii. A minimum of three references from persons who have personal knowledge of the applicant's land surveying education, experience, or training, one of whom shall be a licensed professional land surveyor in the United States. References from relatives of the applicant or current Board members shall not be accepted. An applicant may satisfy this requirement by submitting an NCEES record that includes verification of references acceptable to the Board; and
2. The application fee set forth at N.J.A.C. 13:40-6.1(a)1.

(c) The applicant shall be responsible for verifying the receipt of all required materials listed in (b)1 and 2 above by the Board..

§ 13:40-2.4 Professional land surveyor: eligibility requirements and application process

(a) To be eligible for licensure as a professional land surveyor, an applicant:

1. Shall demonstrate graduation from a program with a bachelor's degree in land surveying that is accredited by the Technology Accreditation Commission of ABET, Inc.
 - i. An applicant with a degree from a college or university that is not accredited by ABET shall obtain, as his or her own expense, and submit to the Board, a detailed evaluation of his or her degree from a credential evaluation service approved by the Board or from a credential evaluation

service chosen by the applicant, which the Board will have the discretion to accept;

2. Shall demonstrate passage of Part F--Fundamentals of Land Surveying;
3. Shall demonstrate passage of Part P--Principles and Practices of Land Surveying;
4. Shall demonstrate three years of professional experience gained in the United States under the regular and effective supervision of a licensed professional land surveyor and consistent with the requirements of N.J.S.A. 45:8-28(e), which shall include land surveying experience that the Board determines has demonstrated increased responsibility and technical expertise over time.
 - i. Experience prior to graduation from a Board-approved program shall be evaluated by the Board on a case-by-case basis if the experience is gained under the regular and effective supervision of a licensed land surveyor and if the applicant has passed the appropriate technical courses needed to perform the work experience.
 - ii. An applicant who has completed a master's or doctorate degree in land surveying may obtain credit for one year of the required professional experience. An applicant who completed both master's and doctorate degrees may obtain credit for two years of the required professional experience.
 - (1) If any portion of the curriculum completed by the applicant as part of a master's or doctorate degree, or both, is required to be considered by the Board in order for the applicant to meet the minimum education standard requirement for licensure, the applicant shall not also receive experience credit for such education.
 - iii. Teaching experience may substitute for up to two years of land surveying experience. The teaching experience shall be in land surveying or land surveying-related courses taught in the junior or senior year or in a graduate program at a college or university offering a land surveying program of four years or more, acceptable to the Board; and
5. Seeking credit for military education, training, or experience shall follow the procedure set forth at N.J.A.C. 13:40-2.6.

(b) An applicant for licensure as a professional land surveyor shall have the following submitted to the Board:

1. A completed and notarized application, which includes:
 - i. A description of professional experience pursuant to (a)5 above. An applicant may satisfy this requirement if he or she submits an NCEES record that includes a verification of experience acceptable to the Board;
 - ii. Proof of education verified by the submission of an official transcript, sent to the Board by the institution or institutions at which the applicant studied, indicating that the applicant satisfied the educational requirements in land surveying. An applicant may satisfy this requirement if he or she submits either an NCEES record that includes verification of education acceptable to the Board or a surveyor-in-training certificate issued by the Board pursuant to N.J.A.C. 13:40-2.3;
 - iii. Proof of passage of Part F--Fundamentals of Land Surveying. An applicant may satisfy this requirement if he or she submits either an NCEES record that includes verification of the passage of the examination or a surveyor-in-training certificate issued by the Board pursuant to N.J.A.C. 13:40-2.3;
 - iv. Proof of Passage of Part P--the Principles and Practices of Land Surveying. An applicant may satisfy this requirement if he or she submits an NCEES record that includes verification of passage; and
 - v. A minimum of five references from persons who have personal knowledge of the applicant's experience or training, three of whom shall be licensed professional land surveyors in the United States. References must be included from professional land surveyors in responsible charge of the work constituting the minimum experience required for licensure. Special circumstances may be considered by the Board at the time of application in such cases where a licensed professional land surveyor in responsible charge of the work being claimed by the applicant is not available. An applicant may satisfy this requirement by submitting an NCEES record that includes verification of references acceptable to the Board;
2. The application fee set forth in N.J.A.C. 13:40-6.1(a)1; and

3. The applicant shall be responsible for verifying the receipt of all required materials listed in (b)1 and 2 above by the Board..

§ 13:40-2.5 Waiver of Fundamentals of Engineering examination

The Fundamentals of Engineering portion of the licensure examination may be waived, provided that, in addition to meeting the education requirements set forth at N.J.A.C. 13:40-2.2, an applicant has an additional 15 years or more experience in engineering work that the Board determines is consistent with the requirements of N.J.S.A. 45:8-2.8(b). Eight of those years shall have been gained in the United States or acquired while working for a United States-based firm. Experience shall include engineering design experience demonstrating increased responsibility over time. All experience shall be gained under the regular and effective supervision of a licensed professional engineer.

§ 13:40-2.6 Credit towards licensure or certification for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure or certificate of registration under this subchapter may apply to the Board for recognition of the applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Board shall consider, together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure or certificate of registration, as appropriate.

(b) The Board shall issue a license or certificate of registration, as appropriate, to the applicant, if the applicant presents evidence to the Board that:

1. The applicant has been honorably discharged from active military service;
2. The relevant training, experience, and education the applicant has received in the military, together with any education, training, and experience obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, experience, and education required for licensure or certification under this subchapter.
 - i. An applicant seeking credit for military training and experience shall submit to the Board, the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.

ii. An applicant seeking credit for education courses and/or training completed while in the military who does not hold a degree from an engineering or land surveying program accredited by the Engineering Accreditation Commission or Technology Accreditation Commission of ABET, Inc. shall submit to a credential evaluation service approved by the Board or to a credential evaluation service chosen by the applicant, which the Board will have the discretion to accept, a Joint Services Transcript of his or her education and training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to an ABET, Inc. accredited program. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those courses and/or training relevant to the practice of engineering or land surveying, as applicable, that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for licensure or certification under this subchapter, as appropriate, including, but not limited to, successful completion of any examination or examinations required for licensure or certification.

i. An applicant who formerly served in the Armed Forces may satisfy the requirement for verification of education, examination, and/or experience by submitting to the Board an NCEES record as proof. An applicant may also submit an EIT or LSIT certificate to demonstrate education and/or passage of the Fundamentals of Engineering or Fundamentals in Land Surveying examination.

(c) An applicant shall be responsible for providing timely and complete evidence of the education, training, and experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and experience, or a portion thereof, is deemed not to be substantially equivalent to that required for licensure or certificate of registration, as appropriate, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under this subchapter for the issuance of the license or certificate of registration.

(e) Satisfactory evidence of such education, training, and experience shall be assessed on a case-by-case basis..

§ 13:40-2.7 Application; reapplication

(a) All applications shall be valid for two years from the date the application is received by the Board. If the application process is not complete after two years, the application shall be deemed abandoned.

(b) An applicant whose application has been deemed abandoned may reapply and shall satisfy the eligibility requirements of the rules applicable at the time of the new application.

§ 13:40-2.8 Biennial license renewal

(a) The Board shall send a notice of renewal to each licensee at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew provided that the licensee is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.

(b) A licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:40-6.1, prior to the date of license expiration.

(c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of professional engineering or professional land surveying, or hold themselves out as eligible to engage in the practice of professional engineering or professional land surveying, in New Jersey until such time as the license is returned to active status.

(d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration, by submitting a renewal application, a renewal fee, and a late fee as set forth in N.J.A.C. 13:40-6.1. During this 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license.

(e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.

(f) A licensee who continues to engage in the practice of professional engineering or professional land surveying with a suspended license shall be deemed to be engaging in the unauthorized practice of professional engineering or professional land surveying and

shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

§ 13:40-2.9 Reactivation of license

(a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:40-2.8(c) may apply to the Board for reactivation of the inactive license. A licensee seeking reactivation of an inactive license shall submit:

1. A renewal application;
2. A certification of employment listing each job held during the period the license was inactive, which shall include the name, address, and telephone number of each employer;
3. The renewal fee for the biennial period for which reactivation is sought, as set forth in N.J.A.C. 13:40-6.1 or, in the discretion of the Board, a prorated fee if there is less than one year remaining in the biennial renewal period; and
4. Evidence of having completed all continuing competency credits that were required to be completed during the biennial period immediately prior to the renewal period for which reactivation is sought, consistent with the requirements set forth in N.J.A.C. 13:40-12 or 13.
 - i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of professional engineering or professional land surveying and submits proof of having satisfied that state's continuing competency requirements for that license shall be deemed to have satisfied the requirements of this paragraph. If the other state does not have any continuing competency requirements, the requirements of this paragraph shall apply.
 - ii. To the extent that specific courses are required to satisfy the continuing competency requirement for, or are required to have been satisfied prior to, the biennial period for which reactivation is sought, the Board will allow applicants to take the courses within 12 months following reactivation. If the Board concludes, in accordance with (b) below, that there are practice deficiencies in need of remediation, (b) below shall apply.

(b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an

assessment of skills, a refresher course, or other requirements as determined by the Board prior to reactivation of licensure to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:

1. Length of time license was inactive;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing body;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of professional engineering, land surveying, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdictions;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional licensing body in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of professional engineering, land surveying, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

§ 13:40-2.10 Reinstatement of suspended license

(a) A licensee who has had his or her license suspended pursuant to N.J.A.C. 13:40-2.8 may apply to the Board for reinstatement. A licensee applying for reinstatement shall submit:

1. A reinstatement application;
2. A certification of employment listing each job held during the period of suspended license, which includes the names, addresses, and telephone numbers of each employer;

3. The renewal fee for the biennial period for which reinstatement is sought;
4. The unpaid renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;
5. The reinstatement fee set forth in N.J.A.C. 13:40-6.1; and
6. Evidence of having completed all continuing competency credits that were required to be completed during the biennial period immediately prior to the renewal period for which reinstatement is sought, consistent with the requirements set forth in N.J.A.C. 13:40-12 or 13.

i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of professional engineering or professional land surveying and submits proof of having satisfied that state's continuing competency requirements for that license, shall be deemed to have satisfied the requirements of this paragraph. If the other state does not have any continuing competency requirements, the requirements of this paragraph shall apply.

ii. To the extent that specific courses are required to satisfy the continuing competency requirement for, or are required to have been satisfied prior to, the biennial period for which reinstatement is sought, the Board will allow applicants to take the courses within 12 months following reinstatement. If the Board concludes, in accordance with (b) below, that there are practice deficiencies in need of remediation, (b) below shall apply.

(b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to, and successfully pass, an examination or an assessment of skills, a refresher course, or other requirements, as determined by the Board, prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reinstatement of licensure to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations, as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:

1. Length of time license was suspended;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing body;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of professional engineering, land surveying, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional licensing body in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of professional engineering, land surveying, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

§ 13:40-2.11 Licensure by comity

(a) Upon receipt of a completed application and application fee, the Board shall issue a license to any person who documents that the person holds a valid, current corresponding license in good standing by another state, if:

1. The Board determines the state that issued the license has, or had at the time of issuance, education, training, and examination requirements for licensure substantially equivalent to current Board standards.
 - i. "Substantially equivalent" examination need not be identical to the current examination requirements for professional engineers or land surveyors licensed in New Jersey but such examination shall be nationally recognized and of comparable scope and rigor.
 - ii. An applicant's experience may be considered by the Board to compensate for disparity in substantial equivalence in education and examination requirements. However, the applicant must have either an undergraduate or graduate degree in engineering, engineering technology, or land surveying;

2. The applicant practiced as a professional engineer or professional land surveyor or the equivalent in another state within five years prior to the date of the application; and

3. The requirements of (b) below have been satisfied.

(b) Prior to issuing a license, the Board shall have received or obtained the following:

1. Documentation reasonably satisfactory to the Board demonstrating the applicant's license from each state in which the applicant is licensed is in good standing.

i. "Good standing" means the following:

(1) No action has been taken against the applicant's license by any licensing board;

(2) No action adversely affecting the applicant's privileges to practice as a professional engineer or professional land surveyor has been taken by any out-of-State institution, organization, or employer;

(3) No disciplinary proceeding is pending that could affect the applicant's privileges to practice professional engineering or professional land surveying;

(4) All fines levied by any out-of-state board have been paid; and

(5) There is no pending or final action by any criminal authority for violation of law, rule, or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, this State, or any other state, including, but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or an offense involving any controlled dangerous substance or controlled dangerous substance analog; and

2. Designation of an agent in New Jersey for service of process, if the applicant does not reside nor have an office in this State.

(c) If the education and examination requirements in the state in which the applicant is licensed are not substantially equivalent to the Board's current standards as required in (a) above, the Board shall consider an applicant's individual experience to compensate for such disparity. In making a determination whether an applicant's experience would

compensate for such disparity in substantial equivalence in education or examination, the Board shall consider the following:

1. The applicant's length of experience;
2. Whether the experience was supervised by another individual;
3. The applicant's professional engineering or professional land surveying history;
4. The applicant's employment history; and
5. The applicant's education.

(d) An applicant shall satisfy, or shall have satisfied, all applicable prerequisites required for initial licensure in this State.

(e) Not later than six months after the issuance of a license, an applicant shall provide the Board with evidence reasonably satisfactory to the Board verifying an applicant's education, training, and examination results. An applicant may satisfy the requirement for verification of education, examination, and experience by submitting to the Board an NCEES record as proof.

(f) The Board, after the licensee has been given notice and an opportunity to be heard, may revoke any license based on a license issued by another state obtained through fraud, deception, or misrepresentation.

(g) The Board may grant a license to an applicant seeking reciprocity who holds a license from another state who does not meet the good standing requirements of (a) above due to a pending action by a licensing board; a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice, a pending disciplinary proceeding; or a pending criminal charge or arrest for a crime, provided the alleged conduct of the applicant that is the subject of the action, proceeding, charge, or arrest, assuming it is true, does not demonstrate a serious inability to practice professional engineering or professional land surveying; adversely affect public health, safety, and welfare; or result in economic or physical harm to a person; or create a significant threat of such harm..

Subchapter 3. Prohibited Actions; Exemptions; Standards of Practice; Misconduct

§ 13:40-3.1 Prohibited actions; issuance and display of certificate; advertising

(a) A person shall not use the title "professional engineer," "engineer" or its substantial equivalent or otherwise represent to the public that the person is licensed to practice engineering in this State unless that person is licensed by the Board.

(b) A person shall not use the title "professional land surveyor," "surveyor" or its substantial equivalent or otherwise represent to the public that the person is licensed to practice professional land surveying in this State unless that person is licensed by the Board.

(c) All professional engineering and professional land surveying performed for or by a department, institution, commission, board or body of the State Government or for or by any county, city, township, village, borough or other municipal corporation or other political subdivision in the State shall be performed by a licensed individual in conformance with N.J.S.A. 45:8-27 et seq., 45:4B-1 et seq. and N.J.A.C. 13:40.

(d) Every holder of a license shall display the license certificate in a conspicuous place in the licensee's principal office, place of business or employment.

(e) Each license number and license certificate containing the license number issued by the Board shall remain the property of the State of New Jersey. If the Board suspends, fails to renew, or revokes a license, the licensee shall immediately return all certificates to the Board and shall remove the license number from all advertising and anything else on which the license number is displayed or otherwise communicated.

(f) The Board shall issue a replacement license certificate to a licensee upon payment of the replacement certificate fee as set forth in N.J.A.C. 13:40-6.1 and receipt by the Board of an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated or is otherwise no longer in the custody of and cannot be recovered by the licensee.

(g) The Board shall issue a duplicate license certificate to a licensee upon payment of the duplicate certificate fee as set forth in N.J.A.C. 13:40-6.1 and receipt by the Board of an affidavit or certified statement that the licensee has multiple places of business in which the licensee must display a certificate. A licensee shall not possess more certificates than the number of places of business utilized by the licensee.

(h) Failure to return a license certificate which has been rendered invalid shall subject the individual to such penalties as provided by law and may be grounds for the Board to refuse to reinstate a license.

§ 13:40-3.2 Licensure exemptions

(a) The following persons shall be exempt from the licensure requirements of N.J.A.C. 13:40-3.1:

1. An individual not a resident of and having no established place of business in this State who practices or offers to practice professional engineering or professional land surveying when such practice does not exceed in the aggregate 30 consecutive days in any calendar year provided that the individual is legally qualified by license to practice professional engineering or professional land surveying in any State or county in which the requirements and qualifications for licensure are at least comparable to those required by the Board and no final plans or reports are submitted by the individual;
2. An individual not a resident of and having no established place of business in this State or who recently becomes a resident of this State, who practices or offers to practice professional engineering or professional land surveying for more than 30 days in any calendar year if the individual has filed with the Board an application for licensure and has paid the requisite fees, provided that the individual is legally qualified to practice professional engineering or professional land surveying in any State or country in which the requirements and qualifications for obtaining a license are at least comparable to those required by the Board and this exemption shall continue only for such time as the Board requires for its consideration of the application for licensure;
3. An employee or a subordinate of an individual holding a valid license issued by the Board or an employee of a person exempted from licensure by (a)1 or 2 above, provided that this practice does not include responsible charge of design or supervision;
4. An officer or employee of the Government of the United States while engaged within this State in the practice of professional engineering or professional land surveying for the government;
5. An officer or employee of a corporation engaged in interstate commerce as defined in an act of Congress entitled "Act to regulate commerce," approved February 4, 1887, 24 Stat. 379, and as amended, when practicing professional engineering or professional land surveying solely for that corporation unless such practice affects public safety or health;

6. An employee of a corporation or any of its affiliated companies, any of which are in the field of telecommunications and subject to the jurisdiction of the State Board of Public Utilities or the Federal Communications Commission, when acting on behalf of that corporation or any of its affiliated companies;
7. An employee of a corporation or any of its affiliated companies, any of which are in the field of telecommunications and in which the primary business is research and technical development manufacturing or product design, when acting on behalf of that corporation or any of its affiliated companies; and
8. A person when exclusively practicing professional engineering or professional land surveying on property owned or leased by the person unless such practice involves the safety, health or welfare of the public.

(b) The design of buildings by professional engineers shall be consistent with section 7 of the Building Design Services Act, N.J.S.A. 45:4B-7.

(c) Nothing in this subchapter shall prohibit licensed architects from providing or offering services consistent with the Building Design Services Act, N.J.S.A. 45:4B-1 et seq.

§ 13:40-3.3 Advertising

(a) Professional engineers and professional land surveyors shall meet the following requirements concerning advertisements:

1. An advertisement shall include a term which is descriptive of the professional services to be rendered, such as "professional engineer," "professional land surveyor," "professional engineering," "engineering," "professional land surveying," "surveying," "professional engineer on staff," "professional land surveyor on staff," "professional engineering services," "professional land surveying services" or the substantial equivalent thereof and may be made only by a professional business entity.
2. An advertisement shall include the name and license number of a professional engineer or professional land surveyor, as appropriate, and, if applicable, the name of the professional business entity and its certificate of authorization number.
3. Each professional engineer and professional land surveyor, who is a principal, partner or officer of a professional business entity, shall be responsible for the form and content of any advertisement, which offers to provide professional engineering and/or

professional land surveying services.

4. A copy of each advertisement shall be retained by each professional engineer and professional land surveyor who is a principal, partner or officer of a professional business entity, for a period of three years from the date of the last authorized publication or dissemination of the advertisement and shall be made available for review upon request by the Board.

5. Any professional engineer, professional land surveyor or professional business entity that uses an advertisement containing false or misleading information, including claims of superiority that cannot be substantiated, or that fails to meet the requirements set forth in this subsection shall be deemed to be engaged in professional misconduct.

§ 13:40-3.4 Release of project records

(a) As used in this section, the term "records" whether electronic, digital or in written form, shall include, but not be limited to, any plans, reports, documents, field notes or other items of work product generated for an engineering or land surveying project as contractually defined, which would be reasonably necessary to the completion of the project for which the professional engineer or professional land surveyor was originally retained.

(b) Originals of records shall remain in the possession of the professional engineer or professional land surveyor unless otherwise provided by statute or written contractual agreement.

(c) The client of a professional engineer or professional land surveyor shall be entitled to complete copies of all records, whether electronic, digital or written form, generated for the engineering and/or land surveying project within a reasonable period of time after forwarding a written request to the professional engineer or professional land surveyor and upon payment of such proportion of fees as reflect the extent of all services performed.

1. Such copies may be signed but shall not be sealed where data utilized as the basis for the preparation of same may have changed since the date the documents were originally prepared.

2. A disclaimer shall be put on said documents which indicates that the data utilized in the documents may have changed. The disclaimer shall read as follows:

"This document reflects conditions as of (insert place, date of the original document) and may not show current conditions as of (insert the present date)."

(d) The professional engineer or professional land surveyor shall be compensated for the reasonable costs of research and reproduction for copies of records released pursuant to this section.

§ 13:40-3.5 Enumeration of prohibited acts

(a) Misconduct in the practice of professional engineering or professional land surveying shall include, without limitation:

1. Acting for his or her client or employer in professional matters otherwise than as a faithful agent or trustee; accepting any remuneration other than his or her stated recompense for services rendered.
2. Disregarding the safety, health and welfare of the public in the performance of his or her professional duties: preparing or signing and sealing plans, surveys or specifications which are not of a safe design and/or not in conformity with accepted standards. If the client or employer insists on such conduct, the licensee shall notify the proper authorities and withdraw from further service on the project.
3. Advertising in violation of N.J.A.C. 13:40-3.3.
4. Engaging in any activity that involves him or her in a conflict of interest, including without limitation:
 - i. A licensee shall inform his or her client or employer of any business connection, interest, or circumstance that might be deemed as influencing his or her judgment or the quality of his or her services to the client or employer.
 - ii. When in public service as a member, advisor, or employee of a governmental agency, a licensee shall not participate in the deliberations or actions of such agency with respect to services rendered, or to be rendered, by the licensee or any firm or organization with which he or she is associated in private practice.
 - iii. A licensee shall not solicit or accept a professional contract from a governmental agency upon which a principal, officer, or employee of his or her firm or organization serves as a member, advisor, or employee.
 - iv. A licensee shall not accept compensation or remuneration, financial or otherwise, from more than one interested party for the same service or for services pertaining to

the same work, unless there has been full disclosure to and consent by all interested parties.

v. A licensee shall not accept compensation or remuneration, financial or otherwise, from service, material, or equipment suppliers for specifying their services or products.

vi. A licensee shall not compensate or remunerate, financially or otherwise, any party for specifying that licensee's services to the exclusion of other licensees.

vii. A licensee shall not accept commissions or allowances, directly or indirectly, from contractors or other persons dealing with his client or employer in connection with work for which he is responsible to the client or employer.

5. Affixing his or her signature and seal to any plans, specifications, plats or reports or surveys which were not prepared by him or her or under his or her supervision by his or her employees or subordinates.

6. Failure to comply with Federal, state or local laws, rules or regulations relating to the practice of the profession.

7. Permitting or allowing any person not appropriately licensed pursuant to N.J.S.A. 45:8-27 et seq. or this chapter to act for or on behalf of the licensee as his representative, surrogate or agent while appearing before any public or private body for the purpose of rendering professional engineering or professional land surveying services.

8. Failure to determine and document the identity of the client prior to commencing any work. All correspondence, contracts, bills shall be addressed to that client, unless expressly directed otherwise, in writing, by the client.

9. Failure to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

10. Failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions.

11. Failure of a licensee to respond in writing within 30 days to a written communication from the State Board of Professional Engineers and Land Surveyors with respect to any investigative inquiry relating to the possible violation of any statute or regulation administered by the Board, and to make available any relevant records with respect to such an inquiry. The 30-day period shall begin on the day when such communication was sent from the Board by certified mail with return receipt requested to the address appearing on the last registration.

12. Rendering engineering or land surveying services and/or professional opinions when not qualified by training, education and experience in the specific discipline of professional engineering and/or professional land surveying that is involved.

13. Engaging in any activity which results in suspension, revocation or surrender of a professional license or certification in another jurisdiction.

14. Failure to comply with the requirements set forth in N.J.A.C. 13:40-5.1(d) and 5.2 concerning the waiver of the setting of corner markers

§ 13:40-3.6 Reporting incidents of professional misconduct

If a licensee has knowledge or reason to believe that another person or firm may be in violation of or has violated any of the statutes or rules administered by the State Board of Professional Engineers and Land Surveyors, he or she shall present such information to the Board in writing and shall cooperate with the Board in furnishing such information or assistance as may be required by the Board.

Subchapter 4. General Provisions

§ 13:40-4.1 Notification of change of address; service of process

(a) A licensee of the State Board of Professional Engineers and Land Surveyors shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued certificate. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 30 days following the change of address.

1. All addresses of licensees shall contain street names and numbers. Post office box numbers without street addresses shall not be acceptable.

(b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action.

(c) Service of an administrative complaint or other Board-initiated process at a licensee's address on file with the Board shall be deemed adequate notice when service by certified or regular mail is acceptable and shall allow the commencement of any disciplinary proceedings.

§ 13:40-4.2 Scope of practice; home inspections

(a) An engineer licensed by the State Board of Professional Engineers and Land Surveyors may apply to the Board for certification of eligibility for licensure as a home inspector.

(b) The licensed professional engineer shall submit to the Board an application provided by the Board and the application fee in the amount set forth at N.J.A.C. 13:40-15.23. The licensed professional engineer shall document through submission of the application that the engineer possesses the requisite training, education and experience to conduct home inspections specifically related to the following systems and components:

1. Structural components;
2. Exterior components;
3. Roofing system;
4. Plumbing system;
5. Electrical system;
6. Heating system;
7. Cooling system;
8. Interior component system;
9. Insulation system;
10. Ventilation system;
11. Fireplace system;
12. Solid fuel burning appliances or systems; and
13. Related residential housing component systems.

(c) The Board shall review the qualifications of the licensed professional engineer to determine whether the engineer is qualified to perform a home inspection pursuant to the requirements of (b) above. If the Board determines that the applicant is qualified to perform home inspections, the Board shall refer the application to the Home Inspection Advisory Committee which shall issue a home inspector license to the engineer in accordance with the requirements of N.J.A.C. 13:40-15.

(d) Upon issuance of a home inspection license by the Committee, the licensed professional engineer shall be subject to the license fees set forth in N.J.A.C. 13:40-15.23 and shall perform home inspections in accordance with the rules of the Committee as set forth in N.J.A.C. 13:40-15.

Subchapter 5. Professional Land Surveyors; Preparation Of Land Surveys

§ 13:40-5.1 Professional land surveyors; preparation of land surveys

(a) The practice of land surveying includes surveying of areas for their correct determination and description and for conveyancing, and for the establishment or reestablishment of land boundaries and the plotting of lands and subdivisions thereof, and such topographical survey and land development as is incidental to the land survey.

(b) Prior to conducting a survey, the licensed professional land surveyor shall obtain all pertinent information and documentation in the client's possession relative to the property to be surveyed. Such information may include, but not be limited to, earlier surveys, record deeds, title reports, original tract maps, public records, and State, county, or municipal maps. When such information provided is not sufficient to meet the owner's needs, the surveyor shall make all reasonable efforts to obtain all information and documentation needed to render an accurate survey, but shall not rely on a tax map for purposes of defining metes and bounds.

(c) When a property survey is to be performed, a field survey must be made of the property in question and such field survey shall include all measurements and recording of all data as may be necessary to perform an accurate survey. The licensed professional land surveyor shall either perform the field survey or exercise sufficient supervision of the work as necessary to fulfill adequately all professional responsibilities.

(d) Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and such other markers as may be authorized under (d)2 below, shall be set either by the licensed professional land surveyor or under the supervision of the licensed professional land surveyor. Such markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible, or unless a written waiver signed by the ultimate user and witnessed by a person other than a professional land surveyor is obtained as set forth in N.J.A.C. 13:40-5.2. The failure to obtain a waiver when corner markers are not set shall be considered professional misconduct. Any violation of this subsection shall subject the licensee to a penalty of not more than \$ 2,500 for each violation.

1. All boundary or corner markers delineating the property surveyed, found or set, must be described on the plat of survey with data provided to show their relation to the property or corner or, if appropriate, to the boundary lines. When a property corner cannot be set because of physical constraints, a witness marker shall be set and so noted upon the plat of survey.

2. Markers for property corners set by licensed surveyors shall be composed of durable material and be of the minimum length practical to reasonably assure permanence, with a recommended length of 18 inches or more. These markers may include:

- i. Concrete monuments;
- ii. Iron pins, one-half inch O.D. or larger;
- iii. Reinforcing steel bars one-half inch O.D. or larger;
- iv. Iron pipes, one-half inch O.D. or larger;
- v. Commercially manufactured iron or aluminum monuments;
- vi. Brass discs (or similar metal), set in durable material;
- vii. Nails or spikes set in durable materials;
- viii. Drill holes in durable materials; and
- ix. Plastic stakes.

3. The marker requirements in (d)2 above do not apply to intermediate points set on line or for random traverse points.

4. In all cases listed in (d)2 above, the marker shall be identified with a durable cap, disc, shiner, or other appropriate identifier, bearing the full name of the surveyor or firm responsible for setting the corner.

5. All markers set pursuant to (d)2 above shall be detectable with conventional instruments used to find ferrous or magnetic objects.

6. Paragraph 2 of subsection (d) does not apply to individual condominium units where same are composed totally of buildings.

7. Monuments, where required to be set pursuant to the "Recordation Act" at N.J.S.A. 46:26B-3, shall be:

i. Composed of concrete, containing ferrous material detectable with conventional metal detecting instruments;

ii. At least 30 inches long below finished grade with the top and bottom at least four inches square; and

iii. Identified with a durable cap, disc, or shiner bearing the full name of the surveyor or firm responsible for setting the monument.

8. In the event a monument as specified in (d)7 above is impracticable to install due to physical conditions, the surveyor shall install the most appropriate material necessary to establish permanent, metal detectable monumentation.

9. In the event it is impossible to set a monument as specified in (d)7 above at the prescribed control points, an offset monument shall be set bearing a plate stamped with the word "offset."

10. In all cases listed in (d)8 and 9 above, the surveyor shall acknowledge in the monument installation certification, use of substituted material and/or the use of offset monumentation. Proper instrument sights shall be established and complete offset data shall be recorded with the monument certification to the municipality.

(e) A plat, also referred to as a plan of survey, shall be prepared either by the licensed professional land surveyor or under the supervision of the licensed professional land surveyor. Such plat shall show all matter relevant to a complete and clear exposition of the property.

(f) The items that must always be shown are:

1. Title block complying with N.J.A.C. 13:40-8;

2. The State, county and municipality in which the property is located and specific data as provided by the owner identifying the property or other pertinent identifying data as deemed appropriate by the surveyor, including block, lot number and address;
 3. North arrow, identifying the horizontal datum of the survey (for example, NAD27, NAD83, magnetic, deed book and page, etc.) and scale;
 4. The point of beginning;
 5. Metes and bounds of the property in question; all measurements are to be indicated in feet and decimals of a foot except when legal requirements or professional custom and usage require another form of measurement;
 6. Property corner markers, both found and set, and the relation of existing markers to the property corner or, if appropriate, to the boundary lines;
 7. Street and street names and location and widths of the traveling way, when such streets abut or adjoin the property in question. If the street is not open, the survey should so indicate;
 8. Encroachments of structures both on the premises in question and/or adjoining properties;
 9. Fences, tree rows, hedges, streams, ditches, building locations, easements and any physical occupation influencing property line determination;
 10. In all cases, survey work shall be performed in accordance with currently accepted accuracy standards, but such accuracy standards may be limited by contractual agreements. Such limitations shall be appropriately noted on the final drawing.
- (g) Notwithstanding any other provisions of this subchapter to the contrary, the following items may be omitted where contractual agreements with the client so provide:
1. Areas of established city lots or recorded subdivision map lots, unless the area is recited in the record deed of the property in question;
 2. Fences and streams and ditches, unless such fences, streams and ditches are on or in close proximity to the property lines or otherwise affect the property lines in question;

3. Sidewalks, driveways, walkways or other traveled ways, unless such ways affect the property lines in question;
4. Utility lines, easements of right-of-way lines, except when recited in the record deed or when such utility lines, easements of right-of-way lines affect the use of adjacent properties or the property in question;
5. Location and type of building and other structures on the property in question; and
6. Metes and bounds description of the property, except when the survey is being prepared for the purpose of conveyance of real property (title transfer, creation of easement, or mortgage).

(h) When any of the various items listed in (g) above are omitted, the plat or plan of survey should indicate the specific omitted items in a factual way that such omissions are made.

(i) Upon completing the plat or plan of survey, the licensed professional land surveyor shall provide the client an agreed upon number of prints of the survey drawing. Such print copies of the plat or plan of survey shall bear the signature and impression seal of the license professional land surveyor. Certification by the licensed professional land surveyor may be given when requested by the client.

1. The licensed professional land surveyor shall also supply a description of the property surveyed when the survey is to be used for conveyancing (title transfer, creation of easement, or mortgage). This description must be suitable for use in a deed. The description shall be by metes and bounds or by reference to a filed plan, block, and lot. If a filed plan, block, and lot is utilized, the entire title of the filed plan shall be set forth along with, the filed plan number and the date on which the plan was recorded in the office of the County Recording Officer. If there is any deviation from the filed plan to the completed survey, a description by filed plan, block, and lot, shall not be utilized. The deed description shall be consistent with both the survey provided and the documentation upon which the survey was based and shall be written in such a manner as to define the boundary lines of real property unambiguous and sufficient for a surveyor to lay it out on the ground. This description may be reproduced on the survey plat itself or may be by separate document. If the deed description is provided on the survey plat, it must be titled "Deed Description." If a separate document is provided, the description shall be signed and sealed by the licensed professional land surveyor responsible for its preparation.

2. The term "referenced" shall not be utilized when referring to a filed plat when it is intended to meet the requirements of supplying the deed description listed in (i)1 above. It shall also be improper to use or reference a municipal tax map to comply with the requirements for deed description by reference to a filed plat. A tax map shall not be deemed a filed plan for the purpose of title transfer.

(j) No reproductions or photographic copies of a plan or survey shall be offered or issued by a licensee for use in any court, land transaction or filing in any public agency or office unless such copies shall bear the signature and impression seal of the licensed professional land surveyor.

(k) Tax assessment maps for submission to and approval by the New Jersey Division of Taxation must be prepared and revised by a licensed professional land surveyor, who is obligated to prepare and revise such maps in full compliance with the legal requirements pertaining to such maps.

(l) Failure to comply with the provisions of this subchapter and with applicable State laws and local ordinances may subject the licensed professional land surveyor to disciplinary action.

(m) Subdivision plats, whether classified as major or minor, preliminary or final, shall be prepared by a licensed professional land surveyor and shall be based on a new or existing current and accurate survey of the property being subdivided.

1. The licensee shall provide appropriate survey information, including monumentation, as set forth above, to permit a subsequent licensed professional land surveyor to accurately lay out newly described lots.

2. If a newly described lot will be adjacent to or abutting a perimeter line, the licensee shall ensure that the perimeter line is accurately established on the ground.

3. In all instances, including where deeds are used to record minor subdivisions and/or where an existing plat or plan of survey is used, only the licensee who prepared the boundary map on which the subdivision is based may provide the certification on the subdivision plat that the boundary survey is accurate and was prepared under his or her supervision, as required by the Recordation Act, N.J.S.A. 46:26A, 26B, and 26C, and in accordance with N.J.A.C. 13:40-9, Responsible Charge of Engineering or Land Surveying Work.

(n) Maps prepared to show hydrographic, bathymetric, topographic data, or planimetric data shall be prepared by a licensed professional land surveyor and shall identify the vertical datum and include reference to a benchmark on the site. Such survey

information may be transferred to construction plans or other drawings if duly noted as to the date of the survey, by whom, and for whom it was prepared.

(o) Existing flood elevations shall only be certified by a professional land surveyor.

§ 13:40-5.2 Waiver of corner marker

To: _____

(Name, address and telephone number of the Land Surveyor)

FROM: _____

(Name, address and telephone number of the Ultimate User)

Re: _____

Property (Lot and block number, municipality or other identifier)

This is to advise that I have been made aware of my right to have corner markers set as part of a survey to be performed on the aforementioned property. In addition, I have been made aware of the potential impact of signing the waiver including: (1) the possible need for a future survey as a result of physical improvements to the property, such as a fence, addition, deck, pool, or shed, and (2) the potential inability of the ultimate user to identify the boundary of the property which could result in a boundary dispute with an adjoining property owner and/or property improvements not accurately situated on my property. The right to have corner markers set is hereby waived, and you are directed to perform the land survey without the setting of corner markers as provided by the regulation (N.J.A.C. 13:40-5.2) of the State Board of Professional Engineers and Land Surveyors.

Ultimate User's Signature

Date: _____

Witness' Signature

Date: _____

Name of Witness (Typed or Printed)

Address of Witness (Typed or Printed)

I hereby certify that I have:

1. Advised the ultimate user of the impact of signing the corner marker waiver, which shall include, but not be limited to, the possible need for a future survey as a result of physical improvements to the property and the potential inability of the ultimate user to identify the boundary of the property;
2. Reviewed the waiver to ensure that it was properly signed by the ultimate user and witnessed by a person other than a land surveyor; and
3. Performed a physical measurement of the property.

New Jersey Licensed Land Surveyor

Date:_____

(d) Whenever a written waiver to omit corner markers is obtained, the following notation shall be included on the plat or plan of survey: "A written Waiver and Direction Not to Set Corner Markers has been obtained from the ultimate user pursuant to P.L. 2003, c.14 (N.J.S.A. 45:8-36.3) and N.J.A.C. 13:40-5.1(d)."

(e) The licensee shall maintain the signed corner marker waiver for a minimum of six years.

(f) The licensee shall submit documentation of any waiver to the Board upon its

request.

(g) The Board may review the records of licensees periodically to determine compliance with this section.

(h) Failure to comply with the provisions of this section shall be deemed professional misconduct. Any violation of the provisions of (d) or (e) above shall subject the licensee to a penalty of not more than \$ 2,500 per violation.

Subchapter 6. Fees

§ 13:40-6.1. Fee schedule

(a) The following fees shall be charged by the Board:

1. Application fees:

- i. Engineer-in-training
\$30.00
- ii. Professional engineer
\$75.00
- iii. Land surveyor-in-training.....
\$30.00
- iv. Land surveyor.....
\$75.00

2. Initial license fee:

- i. During the first year of a biennial renewal period \$80.00
- ii. During the second year of a biennial renewal period..... \$40.00

3. Biennial renewal fee.....
\$80.00

4. Retired license fee
\$40.00

5. Inactive license fee (to be determined by Director by rule)

6. Late renewal fee
 \$50.00

7. Reinstatement fee
 \$125.00

8. Reactivation fee

i. Retired licensee
 \$40.00

ii. No-fee retired licensee
 \$80.00

iii. Inactive licensee.....
 \$80.00

9. Duplicate certificate fee.....
 \$20.00

10. Replacement wall certificate
 \$40.00

11. Continuing competency program review fee:

i. For each program provider who seeks approval.....
 \$100.00

ii. For each course for which a licensee seeks approval..... \$10.00

12. Fees shall be nonrefundable and nontransferable.

13. Any applicant who is required under N.J.A.C. 13:40-2 to have his or her degree evaluated must pay via certified check or money order the actual cost of the evaluation.

(b) For a Certificate of Authorization issued pursuant to P.L. 1989, c. 276, general business corporations and limited liability companies offering to provide engineering or land surveying services in New Jersey shall pay a fee of \$120.00 for a biennial period, or \$60.00 per year. The late renewal fee for Certificate of Authorization is \$50.00. The reinstatement fee for Certificate of Authorization is \$125.00.

Subchapter 7. Permissible Division of Responsibility in Submission of Site Plans and Major Subdivision Plats

§ 13:40-7.1 General provisions

(a) Definitions: All words, terms, and phrases shall be as defined in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

(b) Preparation and submission of the various elements of a preliminary or final site plan or major subdivision plat shall be within the professional scope of the various professions as listed in this subchapter.

§ 13:40-7.2 Depiction of existing conditions on a site plan

(a) Survey: Showing existing conditions and exact location of physical features including metes and bounds, drainage, waterways, specific utility locations, and easements: By a land surveyor.

1. Survey information may be transferred to the site plan if duly noted as to the date of the survey, by whom, and for whom. A signed and sealed copy of the survey shall be submitted to the reviewing governmental body with the site plan submission.

(b) Vegetation, general flood plain determination or general location of utilities, buildings or structures: By an architect, planner, engineer, land surveyor, licensed landscape architect or other person acceptable to the reviewing governmental body.

§ 13:40-7.3 Preparation of site plan

(a) The location of proposed buildings and their relationship to the site and the immediate environs: By an architect, engineer, or licensed landscape architect.

(b) The locations of drives; parking layout; pedestrian circulation; and means of ingress and egress: By an architect, planner, engineer, or licensed landscape architect.

(c) Drainage facilities for site plans of 10 acres or more; or involving stormwater detention facilities; or traversed by a water course: By an engineer only.

(d) Other drainage facilities: By an architect or engineer.

(e) Utility connections and on tract extensions: By an engineer or architect.

(f) Off tract utility extensions: By an engineer only.

(g) On site sanitary sewage disposal or flow equalization facilities: By an engineer only.

(h) Preliminary floor plans and elevation views of buildings illustrating the architectural design of a project: By an architect, except when the building is part of an engineering or industrial project, floor plans and elevation views may be by an engineer.

(i) Landscaping, signs, lighting, screening or other information not specified above: By an architect, planner, engineer, licensed landscape architect or other person acceptable to the reviewing governmental body.

(j) The general layout of a conceptual site plan for a multiple building project, showing the development elements, including their relationship to the site and immediate environs: By an architect, planner, engineer or licensed landscape architect.

(k) The grading of land and water forms, natural drainage, and determination of related impacts, assessments, and problems of land disturbance including erosion and sedimentation, blight, or other hazards: By an architect, engineer, or licensed landscape architect.

§ 13:40-7.4 Preparation of a major subdivision plan

(a) The general location of facilities, site improvements and lot layouts: By an architect, engineer, land surveyor, planner or licensed landscape architect.

(b) The design and construction details of all public improvements including street pavements, curbs, sidewalks, sanitary sewage, storm drainage facilities: By an engineer only.

(c) Final subdivision map with metes and bounds: By a land surveyor only.

§ 13:40-7.5 Effect of local ordinances

(a) Informal site plans, not required by local ordinances are excluded from this rule.

(b) No municipal or county ordinance, policy or action purporting to define the scope of professional activity of architects, engineers, land surveyors, planners or licensed landscape architects in the preparation of site plans or major subdivisions shall reduce or expand the scope of professional practice recognized by the boards.

Subchapter 8. Sealing and Title Block Requirements for Professional Engineers and Professional Land Surveyors

§ 13:40-8.1 Signing and sealing of documents

(a) All sealing of documents shall be done with a digital or an impression-type seal, the design of which shall be authorized by the Board and shall contain the name and license number of the professional engineer or professional land surveyor and the legend "Licensed Professional Engineer," "Licensed Land Surveyor" or "Licensed Professional Engineer and Land Surveyor," as the case may be. Alternatives, such as rubber stamp facsimiles of the seal shall not be permitted. Digital seals may be used, so long as they are in compliance with N.J.A.C. 13:40-8.1A.

(b) The application of a signature and seal to documents relating to the practice of professional engineering and/or professional land surveying shall indicate that the licensee has provided regular and effective supervision to those individuals performing services that directly and materially affect the quality and competence of the engineering or land surveying work rendered.

1. The following documents shall be signed and sealed and shall contain the name of the professional business entity and, if appropriate, the entity's certificate of authorization number:

- i. Maps, plats, reports, descriptions, plans, design specifications, certifications or similar documents; and
- ii. Shop drawings for the construction of buildings, structures and related equipment, or for other purposes, the preparation of which requires engineering calculations and/or engineering input. Catalog information and standard product information shall be exempt from the requirements of this section.

(c) The signature and/or seal signifies that the licensee takes professional responsibility for the document based upon the accepted standards of practice in place at the time the documents were sealed.

(d) Where the document includes the work of more than one professional, each professional shall sign and seal the document with clear reference to the work that he or she has performed. See N.J.A.C. 13:40-8.6 for title block requirements.

(e) A licensee shall not affix a signature and/or seal to documents constituting the practice of the profession regulated which have been prepared by another person unless such work was performed under the direction and supervision of the licensee.

(f) Incomplete and/or draft plans, documents, and sketches, whether advanced or preliminary copies, shall be conspicuously identified and may be signed but shall not be sealed, provided the licensee inserts the language that "This is not a sealed document" in place of the seal in the title block.

§ 13:40-8.1A Digital signatures and seals

(a) A digital signature and seal shall carry the same weight, authority, and effect as a handwritten signature and impression-type seal, when the following criteria are met:

1. The digital signing and sealing process satisfies the requirements of the Digital Signature Standard (DSS) established by the National Institute of Standards and Technology, FIPS PUB 186-4, Digital Signature Algorithm Validation System, (2013), which is incorporated herein by reference, as amended and supplemented. This standard may be obtained at the following website: <http://www.NIST.gov/>. The digital signature and seal must be:

- i. Unique to the licensee;
- ii. Verifiable by a trusted third party or some other approved process as belonging to the licensee; and
- iii. Under the licensee's direct and exclusive control; or

2. A digital signature and seal must be linked to a document in such a manner that it is evident if the document has been modified after the digital signature and seal have been applied.

(b) A licensee who digitally signs and seals a document shall maintain an electronic copy of the electronically transmitted document that has also been digitally signed and sealed for future verification purposes in accordance with N.J.A.C. 13:40-3.4(b).

(c) The pictorial representation of the digital signature and seal shall be readily available to the Board upon Board request and shall be produced in a manner acceptable to the Board. It shall contain the same words and shall have substantially the same graphic appearance and size as when the image of the digitally transmitted document is viewed at the same size as the document in its original form.

(d) Licensees are responsible for the use of their private digital keys. A lost or compromised key shall not be used and the licensee shall cause a new key pair to be generated in accordance with the criteria described in (a) above. A licensee shall take all reasonable steps to ensure that a compromised key is invalidated, and shall inform all affected clients that the digital key has been compromised.

§ 13:40-8.2 Title block on drawings; forms; removal

(a) Every licensee shall provide a title block on all drawings (except renderings), and similar information on the title page of all specifications and reports constituting the practice of the profession.

(b) The title block shall be in such form as the Board may adopt or approve.

(c) Such title block shall be distinct and separate from any other title block, plaque, or any similar device of illustration or lettering.

(d) The title block shall be lettered on the drawing in such a manner as to reproduce clearly on all prints and reproductions thereof.

(e) No person shall remove a title block from any manually drafted or digital drawing, or from any print or reproduction for any reason.

(f) A licensee shall not place his or her title block on any drawing, report, or other document that contains a title block of an individual, firm, or corporation that is not authorized to practice professional engineering or professional land surveying in the State.

§ 13:40-8.3 Title block contents

(a) The title block shall contain:

1. The name and location of the project;
2. The name and address of the engineering or land surveying individual firm, partnership, limited liability partnership, limited liability company, corporation, professional association or professional service corporation. The name of the firm in the case of a limited liability partnership shall be followed by the words "Limited Liability Partnership" or the abbreviation "LLP" or "L.L.P." The name of the firm in the case of a limited liability company shall be followed by the words "Limited Liability Company" or the abbreviation "LLC" or "L.L.C."
3. The full name and license number of the person(s) in responsible charge;

4. The title "professional engineer" and/or "professional land surveyor" spelled out;
5. The signature of the person(s) in responsible charge and the date when signed; and
6. If applicable, the certificate of authorization number as required by N.J.S.A. 45:8-56 and N.J.A.C. 13:40-10.1.

(b) An appropriate title block shall be provided on a site plan, which shall be included in any set of drawings of a building project. Any plan including land surveying data must also bear the title block or identity of the professional land surveyor who performed the land surveying work.

(c) The title block may contain the initials of the draftsmen or checker, and dates, drawing numbers, revision numbers and such similar incidental items are as customary in practicing engineers' or land surveyors' offices, provided that the name of the person(s) in responsible charge is readily discernible from the other information on the document and contained within the heavy borderline of the title block.

§ 13:40-8.4 Proposed title block form

Any licensee may submit a proposed form of title block to the State Board of Professional Engineers and Land Surveyors for approval.

§ 13:40-8.5 Title block use for professional engineer and professional land surveyor work project

In the event the project contains the work of both a professional engineer and a professional land surveyor, any individual licensed in both professions may use the title "professional engineer and professional land surveyor," which can be spelled out in one title block.

§ 13:40-8.6 Subtitle block of independent professional

If a project includes the work of any other licensed professional, not under the immediate supervision of the licensee in responsible charge and not otherwise identified in accordance with N.J.A.C. 13:40-7, a subtitle block of that professional firm or individual must appear on all plans involving that profession and each professional shall sign and seal the document with clear reference to the work that he or she has performed.

Subchapter 9. Responsible Charge of Engineering or Land Surveying Work

§ 13:40-9.1 Professional engineers: supervision of subordinates; maintaining records of adequate supervision; acts reflecting inadequate supervision

(a) A licensee in responsible charge of an engineering project shall be a competent professional engineer who provides regular and effective supervision through personal direction to, and quality control over, the efforts of subordinates of the licensee that directly and materially affect the quality and competence of engineering work rendered by the licensee.

(b) A licensee shall maintain such records as are reasonably necessary to establish that the licensee provided regular and effective supervision by personally directing, and having quality control over, the efforts of subordinates of the licensee of which he or she was in responsible charge.

(c) A licensee engaged in any of the following acts or practices shall be deemed not to have rendered the regular and effective supervision required if:

1. The failure to personally inspect or review the work of subordinates where necessary and appropriate;
2. The rendering of a limited, cursory, or perfunctory review of plans or projects in lieu of providing sufficient direction to, and quality control over, the efforts of subordinates of the licensee; and
3. The failure to personally be available on a reasonable basis or with adequate advance notice for consultation and inspection where circumstances require personal availability.

§ 13:40-9.2 Professional land surveyor: supervision of subordinates; maintaining records of adequate supervision; acts reflecting inadequate supervision

(a) A licensee in responsible charge of a land surveying project shall render regular and effective supervision to those individuals performing services that directly and materially affect the quality and competence of land surveying work rendered by the licensee.

(b) A licensee shall maintain such records as are reasonably necessary to establish that the licensee exercised regular and effective supervision of a land surveying project of which he or she was in responsible charge.

(c) A licensee engaged in any of the following acts or practices shall be deemed not to have rendered the regular and effective supervision required if:

1. The regular and continuous absence from principal office premises from which professional services are rendered; except for performance of field work or presence in a field office maintained exclusively for a specific project;
2. The failure to personally inspect or review the work of subordinates where necessary and appropriate;
3. The rendering of a limited, cursory, or perfunctory review of plans or projects in lieu of an appropriate detailed review; and
4. The failure to personally be available, on a reasonable basis or with adequate advance notice, for consultation and inspection, where circumstances require personal availability.

Subchapter 10. Certificates of Authorization

§ 13:40-10.1 Issuance of certificates of authorization

(a) Upon review and approval by the Board of a completed application, the Board shall issue a certificate of authorization to a limited liability company (LLC) or a corporation, other than a professional service corporation established pursuant to the Professional Service Corporation Act, P.L. 1969, c. 232 (N.J.S.A. 14A:17-1 et seq.), if the LLC or corporation meets the following requirements:

1. At least one of the LLC's or corporation's officers or full-time employees is a licensed professional engineer and/or professional land surveyor in this State who shall be in responsible charge of the professional services rendered by the LLC or corporation; or
2. The LLC or corporation has entered into a written contract with a New Jersey licensed professional engineer or professional land surveyor pursuant to N.J.A.C. 13:40-10.3.

(b) In applying for a certificate of authorization, an applicant shall submit to the Board:

1. A completed application form designated by the Board, which shall include, at a minimum, the following:
 - i. The name and address of the LLC or corporation and its satellite offices;
 - ii. The names, addresses, license numbers and signatures of all officers, board members, directors, principals and any licensees who shall be in responsible charge of the practice of professional engineering and/or professional land surveying through the LLC or corporation;
 - iii. The names, addresses, license numbers, and amount and percentage of ownership interest of the LLC or corporation of persons who are licensees of the Board or who are closely allied professionals;
 - iv. The names, addresses, and amount and percentage of ownership interest of the LLC or corporation of persons who are not licensees of the Board nor closely allied professionals; and
 - v. The name and address of the LLC's or corporation's registered agent for service of process in New Jersey;
 2. A certified copy of the Certificate of Formation or Incorporation for an LLC or corporation created in this State or, for an LLC or corporation created outside New Jersey, a certified copy of a Certificate of Authority issued by the Division of Revenue in the New Jersey Department of Treasury and a certified copy of the Certificate of Formation or Incorporation, or its equivalent, issued by the home state;
 3. A copy of the most current annual report filed with the Division of Revenue in the New Jersey Department of Treasury;
 4. If appropriate, a copy of the signed contract entered into pursuant to N.J.A.C. 13:40-10.3; and
 5. The certificate fee as set forth in N.J.A.C. 13:40-6.1.
- (c) The certificate of authorization shall designate all New Jersey licensees who are in responsible charge of the professional engineering and/or professional land surveying activities and decisions of the LLC or corporation. All final drawings, papers and documents involving the practice of professional engineering and/or professional land surveying, when issued by the LLC or corporation or filed for public record, shall be signed and sealed by the New Jersey licensee who is in responsible charge of the work.

(d) The LLC or corporation that has been issued a certificate of authorization and its licensees who are in responsible charge of the professional engineering and/or professional land surveying activities and decisions of the LLC or corporation have a continuing duty to inform the Board within 30 days of any change in the information that was provided to the Board as required pursuant to (b) above, including a copy of each annual report filed with the Division of Revenue.

(e) Misrepresentation of any information provided to the Board or failure to provide updated information as required under (d) above may result in the suspension of the certificate of authority and/or may be deemed to be professional misconduct of the licensees found to be in responsible charge of the professional engineering and/or professional land surveying activities and decisions of the LLC or corporation.

(f) Failure by a licensee in responsible charge to render regular and effective supervision pursuant to N.J.A.C. 13:40-9.1 shall constitute professional misconduct.

§ 13:40-10.2 Biennial renewal of certificates of authorization

(a) All certificates of authorization issued by the Board shall be issued for a biennial period. An LLC or corporation seeking renewal of the certificate shall submit a completed renewal application, a copy of the current annual report filed with the Division of Revenue in the New Jersey Department of Treasury and the renewal fee as set forth in N.J.A.C. 13:40-6.1 prior to the expiration date of the license.

(b) The Board shall send a notice of renewal to each certificate holder at the address registered with the Board at least 60 days prior to the expiration of the certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the certificate holder for failure to renew.

(c) If a certificate holder does not renew the certificate prior to its expiration date, the certificate holder may renew the certificate within 30 days of its expiration by submitting a completed renewal application, a copy of the current annual report filed with the Division of Revenue in the New Jersey Department of Treasury, and the renewal fee and late fee as set forth in N.J.A.C. 13:40-6.1. During this 30-day period the certificate shall be valid, and the certificate holder shall not be deemed to be engaged in unauthorized practice.

(d) A certificate of authorization that is not renewed within 30 days of its expiration shall be automatically suspended. An LLC or corporation, other than a professional service corporation established pursuant to the Professional Service Corporation Act, P.L. 1969, c. 232 (N.J.S.A. 14A:17-1 et seq.), that provides or advertises professional

engineering and/or professional land surveying services while its certificate of authority is suspended shall be in violation of N.J.S.A. 45:8-56.

(e) A certificate of authorization that has been automatically suspended for non-renewal may be reinstated upon the LLC or corporation submitting a completed reinstatement application, a copy of the current annual report filed with the Division of Revenue in the New Jersey Department of Treasury, and the renewal fee and reinstatement fee as set forth in N.J.A.C. 13:40-6.1.

§ 13:40-10.3 Contract requirement

(a) Any business corporation or limited liability company that does not have an officer or employee who is in responsible charge and is licensed as a professional engineer and/or professional land surveyor in this State and which offers or renders such services shall, prior to the offer or rendering of any such service, have a written contract with a New Jersey licensed professional engineer or licensed professional land surveyor, and have obtained a certificate of authorization pursuant to N.J.S.A. 45:8-56 and N.J.A.C. 13:40-10.1. Such written contract shall clearly indicate the licensee to be in responsible charge of the engineering or land surveying services.

(b) A licensed professional engineer or licensed professional land surveyor rendering engineering or surveying services for a business corporation or limited liability company that is required to obtain a certificate of authorization pursuant to N.J.S.A. 45:8-56 and N.J.A.C. 13:40-10.1 shall not perform such services unless he or she is an officer or an employee of the corporation or has a written contract with the corporation prior to rendering professional services and is listed as being in responsible charge on the corporation's certificate of authorization.

(c) A licensed professional engineer or licensed professional land surveyor rendering engineering or surveying services who is listed as being in responsible charge of the engineering or surveying work on a corporation's or limited liability company's certificate of authorization shall notify the Board in writing within 30 days of any change of status regarding the individuals in responsible charge of the corporation or limited liability company. It shall be the duty of the corporation or limited liability company and the licensed professional engineer or licensed professional land surveyor listed as being in responsible charge on the certificate of authorization to provide such notification.

(d) Any corporation or limited liability company that offers or renders engineering and land surveying services without a Certificate of Authorization or with a lapsed Certificate of Authorization shall be subject to civil penalties as authorized by N.J.S.A. 45:1-25.

This subsection shall not apply to a professional service corporation established pursuant to the Professional Service Corporation Act, N.J.S.A. 14A:17-1 et seq.

Subchapter 11. Land Surveyors; Continuing Competency

§ 13:40-11.1 Continuing professional competency requirements; failure to comply

Any professional land surveyor who fails to comply with the continuing professional competency requirements set forth in this subchapter shall be subject to the penalties set forth in N.J.S.A. 45:8-35.9.

§ 13:40-11.2 Definitions

As used in this subchapter, the following terms shall have the following meanings:

"Approved course or activity" means any course or activity with a clear technical purpose and objective or whose purpose and objective is to enhance the skills and knowledge in ethical and business practices, which will maintain, improve or expand skills and knowledge and develop new and relevant technical skills and knowledge in the discipline being practiced by the licensee.

"College/unit semester/unit quarter/hour" means the credit for an ABET (Accreditation Board for Engineering and Technology) approved course or other related college course approved in accordance with N.J.A.C. 13:40-11.6(a)1.

"Contact hour" means 50 minutes of in-class instruction and participation.

"Continuing professional competency credit" or "CPC credit" means one hour of instruction.

§ 13:40-11.3 Credit-hour requirements; dual licensees

(a) Each applicant for license renewal shall be required to have completed, during the preceding biennial period, a minimum of 24 credits of continuing professional competency.

(b) A maximum of eight credits of continuing professional competency may be carried over into a succeeding biennial renewal period.

(c) Except as provided in (d) below, each person licensed as both a professional engineer and professional land surveyor shall complete at least 36 CPC credits relating to the practice of professional engineering and professional land surveying as a condition of biennial renewal. At least 12 of the required 36 credits must be completed in professional engineering, of which two, but no more than eight, shall be in professional practice ethics, and at least 12 credits must be completed in professional land surveying. The remaining 12 credits may be completed in either professional engineering or professional land surveying.

(d) Each person who is licensed as both a professional engineer and a professional land surveyor shall have completed at least 27 CPC credits relating to the practices of professional engineering and professional land surveying. At least 12 of the required 27 credits shall have been completed in professional land surveying, and at least 12 credits shall have been completed in professional engineering, of which two shall have been in professional practice ethics. The remaining three credits may have been completed in either professional engineering or professional land surveying.

§ 13:40-11.4 Approval of course offerings

(a) A continuing competency provider may receive approval for a continuing competency course or program pursuant to the provisions of N.J.A.C. 13:40-11.11 and 11.12. Prior to the offering of the course or program, the provider may apply for approval. However, the provider may apply also after the event to eliminate the need for individual licensees to apply under (b) below.

(b) A licensee seeking to take a course or program which the provider has not had pre-approved by the Board may apply to the Board for pre-approval or post-approval of the course or program offering. The licensee shall submit information similar to that which is required to be supplied by course providers pursuant to N.J.A.C. 13:40-11.11(b).

(c) The Board shall maintain a list of all approved programs and courses at the Board offices and shall furnish this information upon request.

(d) An individual, group or association seeking course or program approval may impose a reasonable differential in course or program fees based upon membership within a group or association. However, in no event shall a sponsoring individual, group or association completely exclude from the course or program any licensee who is not a member of the group or association.

§ 13:40-11.5 Continuing competency programs and other sources of continuing competency credits

(a) The Board shall grant credit for successful completion of the following, provided that the course or program meets the criteria of N.J.A.C. 13:40-11.11 and that any other source of credit directly and materially relates to the practice of land surveying:

1. College courses;
2. Continuing education courses;
3. Correspondence, televised, videotaped and other short courses/tutorials;
4. Seminars, in-house courses, workshops and technical programs at professional meetings and conferences;
5. Teaching or instruction in (a)1, 2 and 4 above;
6. Published papers, articles or books authored by the licensee; and
7. A land surveying examination in another jurisdiction.

§ 13:40-11.6 Credit calculation

(a) Continuing professional competency credits will be granted as follows for each biennial renewal period:

1. Successful completion of approved college level courses.
 - i. Fifteen continuing professional competency credits for each semester hour credit awarded by the college or university, or 10 continuing professional competency credits for each quarter hour credit awarded by the college or university;
2. Successful completion of approved continuing education courses: one continuing professional competency credit for each contact hour of the course.
3. Successful completion of approved correspondence, televised, videotaped and other short courses/tutorials:
 - i. The amount of credit to be allowed for approved correspondence and individual study

programs, including taped study programs, shall be recommended by the program provider based upon one-half the average completion time calculated by the provider after it has conducted appropriate "field tests." Although the program provider must make recommendations concerning the number of credit hours to be granted, the number of credit hours granted shall be determined by the Board; and

ii. Credit for approved correspondence and other individual study programs will be given only in the renewal period in which the course is completed with a successful final examination;

4. Active participation in and successful completion of approved seminars, in-house courses, workshops and technical programs at professional meetings and conferences: one continuing professional competency credit for each hour of attendance at an approved course. Credit will not be granted for courses that are less than one contact hour in duration. Completion of an entire course is required in order to receive any credit;

5. Teaching or instruction in (a)1, 2 or 4 above:

i. Service as an instructor or workshop leader: one continuing professional competency credit for each instructional hour;

ii. The instructor or workshop leader will be given no credit for subsequent sessions in the same year involving substantially identical subject matter, except that after one year has elapsed the Board may give one additional continuing professional competency credit for each instructional hour of service as an instructor or workshop leader for the initial presentation, provided the original material has been updated; and

iii. The maximum credit given for service as an instructor or workshop leader may not exceed 50 percent of the required continuing professional competency credits for any biennial renewal period;

6. Authoring published papers, articles or books on technical surveying subjects that contribute to the professional competence of surveyors: one continuing professional competency credit may be requested for each hour of preparation time on a self-declaration basis, not to exceed a total of 25 percent of the biennial requirement. A copy of the publication shall be submitted to the Board with the request for credit; and

7. Successfully passing a land surveying examination in another jurisdiction: one

continuing professional competency credit for each hour of examination. All parts of the examination must be passed to receive credit for any part. The maximum credit given for successfully passing a land surveying examination in another jurisdiction may not exceed three continuing professional competency credits for each biennial renewal period.

§ 13:40-11.7 Reporting and documenting of continuing professional competency credits

(a) At the time of application for biennial professional land surveyor license renewal, licensees shall provide, on forms approved by the Board, a signed statement certifying that the required number of continuing professional competency credits have been completed. The statement shall include, where applicable, the following:

1. The dates attended;
2. Continuing professional competency credits claimed;
3. The title of the course and a description of its content;
4. The school, firm, or organization providing the course;
5. The instructor; and
6. The course location.

(b) Licensees shall maintain all evidence, as set forth in (e) below, of completion of continuing professional competency credit requirements for two biennial periods after completion and shall submit such documentation to the Board upon request.

(c) Failure to maintain records or falsification of any information submitted with the renewal application may result in an appearance before the Board and, upon notice to the licensee and the opportunity for a hearing, penalties and/or suspension of the license.

(d) The Board will review the records of licensees from time to time, on a random basis, to determine compliance with continuing competency requirements.

(e) Documentation of continuing competency requirements shall consist of the following:

1. A log showing the type of activity claimed, providing organization, location, duration, instructor's or speaker's name and credits claimed;
2. Attendance verification records in the form of college transcripts, completion certificates, paid receipts, and any other documents supporting evidence of attendance;
3. For publications, submission of the published article; and
4. For teaching, a statement of appropriate authority verifying the activity.

§ 13:40-11.8 Waiver of continuing professional competency requirement

(a) The Board may, in its discretion, waive, extend or otherwise modify continuing competency requirements on an individual basis for reasons of hardship, such as illness or disability, or other good cause.

(b) Any licensee seeking a waiver, extension or other modification of the continuing competency requirement shall apply to the Board in writing 90 days prior to renewal of licensure and set forth with specificity the reasons for the request. The licensee shall also provide the Board with such additional information as it may reasonably request in support of the request.

(c) A new licensee by way of examination shall have all continuing competency requirements waived for the first renewal period.

(d) A new licensee by way of comity shall be responsible at the first biennial renewal for one continuing professional competency credit for each month since the New Jersey license was issued.

(e) A licensee serving on active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a calendar year shall have all continuing competency requirements waived for that year.

§ 13:40-11.9 License restoration

The failure on the part of a licensee to renew his or her biennial certificate as required shall not relieve such person of the responsibility to maintain professional competence. At the time of application for restoration, the licensee shall submit satisfactory proof to the Board that he or she has successfully completed all delinquent

CPC credits. If the total credits required to become current exceeds 30, then 30 shall be the maximum number required. In the case of a person licensed as both a professional engineer and professional land surveyor, if the total credits required to become current exceeds 45, then 45 shall be the maximum number required. However, an additional 24 CPC credits (or 36 CPC credits in the case of a dual licensee) will still be required at the next biennial renewal. The credits required to become current shall not be counted towards the CPC credits required for the next biennial renewal.

§ 13:40-11.10 Out-of-jurisdiction resident

Licensees who are residents of jurisdictions other than New Jersey must meet the continuing professional competency requirements for their resident jurisdiction. The requirements for New Jersey will be deemed as satisfied when a licensee provides evidence as having met the requirements of his or her resident jurisdiction, provided the requirements are not less than 24 continuing professional competency credits per biennial renewal period. If the licensee resides in a jurisdiction that has no continuing professional competency requirements, the licensee must meet the requirements of New Jersey.

§ 13:40-11.11 Criteria for continuing competency programs

(a) A course of acceptable subject matter shall directly and materially relate to the practice of land surveying, shall have the purpose and objective to maintain, improve or expand skills and knowledge or enhance skills and knowledge in ethics and business practices related to the profession of land surveying, and shall be:

1. A formal course of learning which contributes directly to the maintenance of professional competence of a licensee;
2. At least one instructional hour in duration; and
3. Conducted by a qualified instructor or workshop leader.

(b) A program provider or a licensee seeking Board approval for a course of acceptable subject matter shall submit the following to the Board:

1. The program provider fee (for providers) or program review fee (for licensees) as set forth in N.J.A.C. 13:40-6.1; and
2. Information to document the elements of (a) above, in writing and on a form provided by the Board, including, but not limited to:

- i. A detailed description of course content and estimated hours of instruction; and
- ii. The curriculum vitae of the lecturer, including specific background which qualifies the individual as a lecturer of repute in the area of instruction.

(c) Courses which meet the requirements set forth in (a) above shall be approved for continuing competency credit if taught by:

1. Undergraduate, post-graduate or adjunct instructors from accredited educational institutions with five years of experience in the lecture subject. The curriculum vitae must reflect the instructor's status and experience;
2. Recognized authorities in the specific subject areas with five years of experience in the lecture subject whose expertise is documented and approved by the Board;
3. Licensees with five years experience in specific subject areas whose expertise is documented and approved by the Board; or
4. Any of the above with less than five years experience who submit curriculum vitae, and are evaluated and approved by the Board on a case-by-case basis.

§ 13:40-11.12 Responsibilities of program providers

(a) Program providers shall:

1. Select and assign qualified instructors for the program;
2. Assure that the number of participants and the physical facilities are consistent with the teaching methods to be utilized;
3. Disclose in advance to prospective participants, the course objectives, prerequisites, experience level, content, required advanced preparation, teaching method and number of continuing professional competency credits or contact hours involved in the program;
4. Solicit evaluations from both the participants and the instructor at the conclusion of each program. Evaluations may take the form of pre-tests for advanced preparation, post-tests for effectiveness of the program, questionnaires completed at the end of the program or later, oral feedback from participants to the instructor or provider or such other mechanism as may be appropriate to an effective evaluation. Programs should be evaluated to determine whether:

- i. Objectives have been met;
 - ii. Prerequisites were necessary or desirable;
 - iii. Facilities were satisfactory;
 - iv. The instructor was effective;
 - v. Advanced preparation materials were satisfactory; and
 - vi. The program content was timely and effective;
5. Evaluate the performance of the instructors at the conclusion of each program to determine their suitability for continuing to serve as instructors and advise instructors of their performance;
6. Systematically review the evaluation process to ensure its effectiveness;
7. Furnish to each enrollee who has successfully completed the program a verification of completion, which shall include at least the following information:
- i. The title, date and location of the course offering;
 - ii. The name and license number of the attendee;
 - iii. The number of credits awarded; and
 - iv. The name and signature of officer or responsible party and seal of the organization;
8. Maintain and retain accurate records of program attendance and completion for a six-year period;
9. Retain a written outline of course materials for a six-year period; and
10. Provide the Board with such documentation as requested by the Board.

Subchapter 12. Retired License and No-Fee Retired License Status

§ 13:40-12.1 Eligibility requirements

(a) A licensed professional engineer or professional land surveyor who has been licensed for a minimum of 25 years and is at least 62 years of age may apply to the Board for status as a retired licensee or a no-fee retired licensee.

(b) A licensee who obtains retired license status or no-fee retired license status shall not offer or practice professional engineering or professional land surveying within the State.

§ 13:40-12.2 Retired licensee: application; entitlement

(a) A licensee who seeks retired license status shall forward to the Board the following:

1. A completed application form furnished by the Board which contains the licensee's current address, telephone number, and information concerning disciplinary matters; and

2. The retired license fee pursuant to N.J.A.C. 13:40-6.1.

(b) The Board shall review the submission set forth in (a) above and if the applicant meets the requirements of N.J.A.C. 13:40-12.1(a), the Board shall declare the licensee retired and place the licensee on the retired status list.

(c) Each retired licensee shall be entitled to the following:

1. A retired licensee when using the titles "Professional Engineer" or "Professional Land Surveyor" or any substantial equivalent shall use the designation "Retired" following his or her name;

2. The name of each retired licensee shall appear in the roster of licensees;

3. Each retired licensee shall receive a certificate from the Board; and

4. Each retired licensee shall receive any mailings from the Board that are sent to active licensees.

(d) Each retired licensee who wishes to maintain retired status shall renew the license biennially and shall remit the retired license fee pursuant to N.J.A.C. 13:40-6.1.

§ 13:40-12.3 No-fee retired licensee

(a) A licensee who seeks no-fee retired licensee status shall submit a completed application form furnished by the Board which contains the licensee's current address, telephone number, and information concerning disciplinary matters.

(b) The Board shall review the submission as set forth in (a) above. If the applicant meets the requirements of N.J.A.C. 13:40-12.1(a), the Board shall declare the licensee retired, and shall place the licensee on the retired status list. The licensee shall not be required to renew the no-fee status biennially.

§ 13:40-12.4 Resumption of practice

(a) A professional engineer or professional land surveyor who has been on retired license status or no-fee retired license status who wishes to resume the practice of professional engineering or professional land surveying shall forward the following to the Board:

1. A completed resumption of practice application form furnished by the Board which contains the licensee's current address, telephone number, details of any disciplinary matters, information concerning whether the licensee has signed and sealed any projects while on retired status, and proof of current competency pursuant to (a)3 below;

2. The reactivation fee for retired licensees or no-fee retired licensees pursuant to N.J.A.C. 13:40-6.1; and

3. For a professional engineer or professional land surveyor who has been on the retired status list for five or more years, satisfactory evidence of current knowledge, competency, and skill in the practice of professional engineering or professional land surveying as follows:

i. Each retired licensee shall provide information on the resumption of practice application regarding current knowledge, competency and skill. The Board shall review the information submitted by the applicant and determine if the applicant has demonstrated the ability to practice in such a way, so as to insure the safety of life, health and property.

ii. Each retired licensee seeking to resume practice shall submit satisfactory proof to the Board that he or she has successfully completed all delinquent CPC credits. If the total credits required to become current exceeds 30, then 30 shall be the maximum number

required. In the case of a person licensed as both a professional engineer and professional land surveyor, if the total credits required to become current exceeds 45, then 45 shall be the maximum number required. However, an additional 24 CPC credits (or 36 CPC credits in the case of a dual licensee) will still be required at the next biennial renewal. The credits required to become current shall not be counted towards the CPC credits required for the next biennial renewal.

(b) For the purposes of this section, the reactivation fee shall mean the reinstatement fee provided in N.J.S.A. 45:8-36.2.

Subchapter 13. Professional Engineers; Continuing Professional Competency Requirements

§ 13:40-13.1 Continuing professional competency requirements

(a) Except as provided in (b) below, each applicant for biennial license renewal shall complete, during the preceding biennial period, 24 CPC credits as specified in N.J.A.C. 13:40-13.4, at least two, but no more than eight, of which shall be in professional practice ethics. Each applicant shall certify on the biennial renewal application form that he or she has completed, during the preceding biennial period, 24 CPC credits, subject to N.J.A.C. 13:40-13.3(a).

(b) For the renewal period beginning May 1, 2012, licensees shall have completed 15 CPC credits, of which two shall have been in professional practice ethics. A licensee who has completed CPC credits in courses meeting the requirements set forth in this section between May 1, 2010 and April 30, 2012, shall be permitted to apply such credits to qualify for the renewal of his or her license for the biennial period commencing on May 1, 2012.

§ 13:40-13.2 Definitions

As used in this subchapter, the following terms shall have the following meanings:

"Continuing professional competency credit" or "CPC credit" means one 60-minute clock hour of an educational activity with no less than 50 minutes of instructional content within the hour relating to the practice of professional engineering in accordance with N.J.S.A. 45:8-35.12(b).

"Educational program" means any advanced course offered in an ABET, Inc. (ABET)

accredited program that directly and materially relates to the practice of professional engineering with the clear purpose and objective to maintain, improve, or expand the skills and knowledge relevant to the practice of engineering. Those courses that must be completed in order to qualify for initial licensure are not considered to be advanced courses and shall not be considered qualifying courses.

"Equivalent educational program" means a program, other than an educational program, relating to the practice of professional engineering with the clear purpose or objective to maintain, improve, or expand the skills and knowledge relevant to the practice of engineering. Equivalent educational programs include, but are not limited to:

1. Meetings of members and subgroups of professional engineering associations and other appropriate professional and technical associations when an engineering topic is presented as a principal part of the program;
2. Research and preparation of examinations, papers, or publications;
3. Presentation of technical presentations, management, leadership or ethics courses, or exhibits;
4. Management or leadership courses relating to a licensee's responsibilities pursuant to N.J.A.C. 13:40-9.1 or ethics courses;
5. Correspondence or distance learning courses on engineering topics where a final examination is required;
6. Teaching or instruction of a course for the first time or teaching a course previously taught if substantial time was spent updating the material;
7. Employer sponsored in-house courses;
8. Workshops and seminars at professional meetings and conferences; and
9. Courses taken at schools, universities, and colleges that are not part of an ABET accredited program.

§ 13:40-13.3 Carry over of excess CPC credits; dual licensees; reinstatement of license

(a) A maximum of 12 CPC credits may be carried over into the next biennial renewal period.

(b) Except as provided in (c) below, each person licensed as both a professional engineer and professional land surveyor shall complete at least 36 CPC credits relating to the practice of professional engineering and professional land surveying as a condition of biennial renewal. At least 12 of the required 36 credits must be completed in professional engineering, of which two, but no more than eight, shall be in professional practice ethics, and at least 12 credits must be completed in professional land surveying. The remaining 12 credits may be completed in either professional engineering or professional land surveying.

(c) For the renewal period beginning May 1, 2012, each person who is licensed as both a professional engineer and a professional land surveyor shall have completed at least 27 CPC credits relating to the practices of professional engineering and professional land surveying. At least 12 of the required 27 credits shall have been completed in professional land surveying and at least 12 credits shall have been completed in professional engineering, of which two shall be in professional practice ethics. The remaining three credits may have been completed in either professional engineering or professional land surveying.

(d) A licensee seeking reinstatement in accordance with N.J.A.C. 13:40-2.15 shall submit proof of completion of all delinquent CPC credits for each biennial period for which the license was suspended or inactive. If the total credits required to become current exceeds 30, then 30 shall be the maximum number required. In the case of a person licensed as both a professional engineer and professional land surveyor, if the total credits required to become current exceeds 45, then 45 shall be the maximum number required. However, an additional 24 CPC credits (or 36 CPC credits in the case of a dual licensee) will still be required at the next biennial renewal. The credits required to become current shall not be counted towards the CPC credits required for the next biennial renewal.

§ 13:40-13.4 Sources of CPC credits

A professional engineer may obtain the required CPC credits from educational programs or from equivalent educational programs sponsored by Board-approved providers as provided in N.J.A.C. 13:40-13.5. All educational programs and equivalent educational programs sponsored by Board-approved providers that directly and materially relate to the practice of professional engineering with the clear purpose to maintain, improve, or expand the skills and knowledge of the licensee relevant to the practice of professional engineering are approved for credit. Courses required for initial licensure or that primarily involve practice building, practice management, or practice

marketing are not approved. The Board will post on its website at <http://www.njconsumeraffairs.gov/pels/Documents/Continuing-Education-List-for-Professional-Engineers.pdf> a list of CPC providers that, pursuant to N.J.A.C. 13:40-13.5(a), have applied and have been approved to sponsor equivalent educational programs for the current biennial period. Regular duties are not considered qualifying activities for CPC credits.

§ 13:40-13.5 Approval procedures for CPC providers; exceptions

(a) A provider seeking Board approval to sponsor equivalent educational programs for CPC credit shall submit an application on a form prescribed by the Board, that shall include course and program descriptions, instructor qualifications, locations, dates and times of courses, and other information as required by the Board, unless the provider is exempted from this requirement pursuant to (c) below. Upon approval, the Board will issue an approved provider number, which shall be used by the provider in identifying the courses and programs to be provided.

(b) A licensee seeking Board approval of equivalent educational programs for CPC credit for a provider that has not been approved pursuant to (a) above or (c) below, may submit an application on a form prescribed by the Board, which shall include course and program descriptions, instructor qualifications, locations, dates and times of courses, number of CPC credits, and other information as required by the Board. The Board shall notify the licensee, in writing, of its determination.

(c) Accredited schools, universities, and colleges; national and state professional engineering and closely allied professional organizations; and Federal, State, and New Jersey bi-state government agencies and independent authorities that sponsor CPC courses or programs, and CPC providers registered with the National Council of Examiners for Engineering and Surveying are approved providers and are exempt from the requirement of submitting an application to the Board and obtaining a CPC provider number.

1. For the purpose of this section, a school, university, or college shall be deemed accredited if it is:

- i. Accredited by the New Jersey Department of Education;
- ii. Approved by the New Jersey Commission on Higher Education; or
- iii. Approved by an agency of another state with requirements substantially similar to

the requirements of the New Jersey Department of Education or New Jersey Commission on Higher Education.

§ 13:40-13.6 Compliance with CPC credits; audit

(a) Each licensee shall be subject to audit by the Board and is responsible for maintaining records to be used to support CPC credits claimed. Records required include, but are not limited to:

1. A log showing the type of activity claimed, sponsoring organization, attendance date, location, duration, instructor or speaker's name, and the number of CPC credits claimed;
2. Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; and
3. All documentation related to the educational program, including, but not limited to, course descriptions, printed program materials, and notes.

(b) A licensee shall maintain records for a period of five years after completion of the CPC course or equivalent educational program and shall submit such documentation to the Board upon request.

§ 13:40-13.7 Credit calculation

(a) CPC credits will be granted for each biennial renewal period as follows:

1. For educational programs:
 - i. Successful completion of approved educational program courses: 15 CPC credits for each semester-hour credit awarded by the college or university, or 10 CPC credits for each quarter-hour credit awarded by the college or university;
2. For equivalent educational programs:
 - i. Meetings of members and subgroups of professional engineering associations and other appropriate professional and technical associations when an engineering topic is presented as a principal part of the program: one CPC credit for each hour of instruction;
 - ii. Research and preparation of examinations, papers or publications: one CPC credit for each hour of research or preparation, not to exceed six CPC credits per biennial renewal period;

iii. Presentation of technical presentations, management, leadership or ethics courses, or exhibits: one CPC credit for each hour of preparation or presentation, not to exceed six CPC credits per biennial renewal period;

iv. Management, leadership or ethics courses: one CPC credit for each hour of instruction;

v. Correspondence or distance learning courses on engineering topics where a final examination is required: one CPC credit for each hour of instruction;

vi. Teaching or instruction of a course for the first time or teaching a course previously taught if substantial time was spent updating material: one CPC credit for each hour of preparation or instruction, not to exceed six CPC credits per biennial renewal period;

vii. Employer sponsored in-house courses: one CPC credit for each hour of instruction; and

viii. Workshops and seminars at professional meetings and conferences: one CPC credit for each hour of instruction; and

3. For courses taken at schools, universities, and colleges that are not part of an ABET accredited program: 15 CPC credits for each semester-hour credit awarded by the college or university, or 10 CPC credits for each quarter-hour credit awarded by the college or university.

§ 13:40-13.8 Waiver of CPC requirements

(a) The Board may waive all or part of the CPC requirements on an individual basis for reasons of hardship, such as illness or disability, retirement of licensee, service in the armed forces of the United States of America, or other good cause.

(b) Any licensee seeking a waiver of all or part of the CPC requirements shall apply to the Board in writing at least 90 days prior to the commencement of the next biennial renewal period and set forth with specificity the reasons for requesting the waiver. The licensee shall also provide such additional information as the Board may reasonably request in support of the waiver request.

(c) A licensee shall not be required to obtain CPC credits during the biennial renewal period in which the licensee obtained initial licensure.

(d) A new licensee by way of comity shall be responsible at the first biennial renewal for one CPC credit for each full calendar month since the New Jersey license was issued.

(e) A licensee serving on active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a calendar year shall have all CPC requirements waived for that year.

§ 13:40-13.9 Responsibilities of program providers

(a) Program providers shall:

1. Select and assign qualified instructors for the program;
2. Assure that the number of participants and the physical facilities are consistent with the teaching methods to be utilized;
3. Disclose in advance to prospective participants, the course objectives, prerequisites, experience level, content, required advanced preparation, teaching method, and the number of CPC credits that may be approved in the program;
4. Solicit evaluations from both the participants and the instructor at the conclusion of each program;
5. Evaluate the performance of the instructors at the conclusion of each program to determine their suitability for continuing to serve as instructors and advise instructors of their performance;
6. Systematically review the evaluation process to ensure its effectiveness;
7. Furnish to each enrollee who has successfully completed the program a verification of completion, which shall include at least the following information:
 - i. The title, date, and location of the course offering;
 - ii. The name and license number of the attendee;
 - iii. The number of credits that may be awarded; and
 - iv. The name and signature of an authorized representative of the provider;

8. Maintain and retain accurate records of program attendance and completion for a six-year period;
9. Retain a written outline of course materials for a six-year period; and
10. Provide the Board with such documentation as requested by the Board.

REFERENCES

New Jersey State Board of Professional Engineers and Land Surveyors: Statutes and Regulations

<https://www.njconsumeraffairs.gov/pels/Pages/regulations.aspx>

New Jersey Statutes: Title 45 Professions and Occupations, Ch. 45:8 Examining Board, (45:8-27 to 45:8-60)

<https://www.njconsumeraffairs.gov/Statutes/Professional-Engineers-Land-Surveyors-Law.pdf>

New Jersey Administrative Code: Title 13. Law and Public Safety, Ch. 40 State Board of Professional Engineers and Land Surveyors, Subchapters 1 to 13, (13:40-1.1 to 13:40-13.9)

<http://www.lexisnexis.com/hottopics/njcode/>

National Society of Professional Engineers, Code of Ethics

<http://www.nspe.org/resources/ethics/code-ethics>

National Society of Professional Engineers, Ethics Resources

<http://www.nspe.org/resources/ethics/ethics-resources>