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RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

38 N.J.R. 1202(a)

Readoption with Amendments: N.J.A.C. 13:40

Adopted Repeals: N.J.A.C. 13:40-2.17, 15.5 and 15.7

Adopted New Rules: N.J.A.C. 13:40-1.1, 1.2, 1.3, 2.15, 3.1, 3.2, 3.3, 10.1, 10.2 and 15.24

State Board of Professional Engineers and Land Surveyors Rules

Proposed: September 6, 2005 at 37 N.J.R. 3253(a).

Adopted: December 1, 2005 by the State Board of Professional Engineers and Land Surveyors, James K. Valenti, Esq., P.E., President.

Filed: January 26, 2006 as R.2006 d.80, with substantive changes not requiring additional public notice or comment (N.J.A.C. 1:30-6.3) and with proposed N.J.A.C. 13:40-3.2(d), (e) and (f) not adopted.

Authority: N.J.S.A. 45:8-27 et seq.

Effective Date: January 26, 2006, Readoption;

February 21, 2006, Amendments, Repeals and New Rules.

Expiration Date: January 26, 2011.

Summary of Agency-Initiated Changes:

The current rules governing home inspection, N.J.A.C. 13:40-15 provide for the licensing of home inspectors and associate home inspectors, N.J.A.C. 13:40-15.5 and 15.6. The rules were promulgated consistent with the provisions of N.J.S.A. 45:8-6 1 et seq., which were in effect when the rules originally were adopted. However, the Legislature has amended and supplemented P.L. 1997, c. 323, N.J.S.A. 45:8-61 et seq., and repealed section 9 of P.L. 1997, c. 323, N.J.S.A. 45:8-69, effective August 18, 2005. See P.L. 2005, c. 201. Those statutory changes repealed the associate home inspector provisions, grandfathered certain licensed associate home inspectors and set forth additional education requirements for licensure as a home inspector. In order to ensure that the regulations comply with the statutory changes, the Board has amended N.J.A.C. 13:40-15 on adoption. The amendments include: repeal of the sections and deletion of the definitions specifically applicable to associate home inspectors, at N.J.A.C. 13:40-15.2, 15.5 and 15.7; deletion of any reference to associate home inspectors; a grandfather provision for certain licensed associate home inspectors, adopted N.J.A.C. 13:40-15.24; and the statutory language for the new education requirements for licensure as a home inspector, N.J.A.C. 13:40-15.6(a). A second change to the home inspector's rules has been made on adoption, based on amendments to N.J.S.A. 45:8-72, which provide an alternate method by which a practicing home inspector may be licensed under the grandfather provision. The Board is amending N.J.A.C. 13:40- 15.4, the grandfather provision for home inspectors, to be consistent with the statute. Because these amendments to the home inspector regulations are based on statutory changes, no comment period is necessary because the Board would not be at liberty to make changes.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the rules

readopted with amendments and new rules.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:40.

Full text of the adopted amendments, repeals and new rules follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:40-1.1 Purpose

The purpose of this chapter is to regulate the practices of professional engineering, 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, land surveyors and/or home inspectors and all licensees practicing professional engineering, land surveying and 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:

"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 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, land surveyors, professional planners and certified landscape architects pursuant to N.J.S.A. 45:8-28(j) and 45:4B-3.

"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" "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, topography including 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 represent 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 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.

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

"Professional business entity" means a sole proprietorship of a licensed professional engineer or land surveyor; a partnership, including a limited liability partnership, of licensed professional engineers and/or land surveyors; a partnership, including a limited liability partnership, of closely allied professionals, including at least one licensed professional engineer or licensed 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 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.

"Responsible charge" means 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.

"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. APPLICATION REQUIREMENTS; LICENSING; BIENNIAL RENEWAL; INACTIVE STATUS

13:40-2.1 Application submission

(a) An applicant for licensure or registration shall submit a completed application as required under this subchapter on a form provided by the Board. The application and materials required under this subchapter for licensure or registration shall be postmarked and sent to the Board office by the deadline prescribed in the application packet for an applicant to be considered eligible for admission to the next regularly scheduled examination. The applicant shall be responsible to verify the receipt of all the required materials by the Board office.

(b) The application shall be reviewed only upon receipt of all the required materials.

(c) An application and other required materials that are not postmarked by the prescribed deadline shall not be reviewed for the next scheduled examination. The application shall be held and reviewed for the subsequent scheduled examination, provided that the application and all required materials are postmarked and sent to the Board office by the deadline prescribed for that examination.

13:40-2.2 Scheduling of examination

(a) Upon the timely submission of a completed application and all supplemental materials, including references and fees, the application shall be reviewed. If the application and supplemental materials satisfy the requirements of this subchapter, the applicant shall be permitted to take the licensing examination.

(b) Upon finding an applicant qualified to sit for an examination, the Board shall forward a packet to the applicant advising that the applicant is eligible to take the examination on one of two dates specified within the packet. The applicant shall choose one of the two dates, so indicate in the materials sent by the Board, and return the completed material to the Board along with the examination fee as required by the examiner. The choice of examination date must be postmarked and mailed to the Board office by the deadline specified in the packet.

13:40-2.3 Cancellation of application; reapplication

(a) All applications to take an examination for licensure shall be valid for five years from the date of initial Board approval; after five years, the application shall be canceled.

(b) (No change.)

(c) Upon reapplication, the applicant shall have postmarked and sent to the Board by the deadline prescribed in the new application packet a new application, the appropriate fees as required pursuant to N.J.A.C. 13:40- 6.1(a)1, all other required materials, and a letter referencing any application number previously assigned by the Board.

13:40-2.4 Engineer-in-training: application procedure; eligibility requirements; requirements for juniors and seniors to sit for Part F portion

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

1. Submit a completed, typewritten and notarized application which contains information concerning the applicant's background;
2. Pay the application fee set forth in N.J.A.C. 13:40-6.1(a);
3. Submit an official transcript indicating the applicant has satisfied the educational requirements set forth in N.J.A.C.

13:40-2.8 in either engineering or engineering technology;

4. Submit a minimum of three references that comply with N.J.A.C. 13:40-2.13 from persons who have personal knowledge of the applicant's experience or training, one of whom shall be a licensed professional engineer in the United States;

5. Submit proof that the applicant has satisfied the language comprehension requirement set forth in N.J.A.C. 13:40-2.14 if the applicant has received an undergraduate degree from a school located in a country where the official language is other than English; and

6. Successfully complete the Part F portion of the examination unless waived by the Board pursuant to N.J.A.C. 13:40-2.12.

(b) A person in his or her junior or senior year of college pursuing either a degree in engineering or engineering technology shall be permitted to sit for the Part F portion of the examination if:

1. The applicant submits a completed, typewritten and notarized application which contains information concerning the applicant's background;

2. The Board receives a letter from the applicant's school indicating that the applicant is currently enrolled as a junior or senior in good academic standing;

3. (No change.)

4. The applicant submits a minimum of three references that comply with N.J.A.C. 13:40-2.13 from persons who have personal knowledge of the applicant's experience or training, one of whom shall be a licensed professional engineer in the United States;

5. The applicant pays the application fee required of engineer-in-training applicants as set forth in N.J.A.C. 13:40-6.1(a)1; and

6. For an applicant who is pursuing his or her undergraduate degree from a school located in a country where the official language is other than English, the Board receives proof that the applicant has satisfied the language comprehension requirement set forth in N.J.A.C. 13:40-2.14.

13:40-2.5 Professional engineer: application procedure; eligibility requirements

(a) An applicant for examination as a professional engineer shall submit the following to the Board:

1. A completed, typewritten and notarized application which contains information concerning the applicant's educational and experiential background;

2. (No change.)

3. An official transcript indicating the applicant has satisfied the educational requirements set forth in N.J.A.C. 13:40-2.8 in either engineering or engineering technology;

4. A minimum of five references that comply with N.J.A.C. 13:40-2.13 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. The professional references for that portion of the applicant's experience constituting the minimum experience required for licensure shall be professional engineers who were in responsible charge of that minimum experience. If the number of experience engagements necessary to constitute the minimum experience requires more than three professional references to confirm such experience, such additional professional references shall be required. 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; and

5. For an applicant who has received his or her undergraduate degree from a school located in a country where the official language is other than English, proof that the applicant has satisfied the language comprehension requirement set forth in N.J.A.C. 13:40-2.14.

(b) To be eligible for licensure, the applicant shall have successfully passed the three-part examination for licensure consisting of:

1. Part F--Fundamentals of Engineering which may be waived by the Board pursuant to N.J.A.C. 13:40-2.12;

2.-3. (No change.)

(c) (No change.)

13:40-2.6 Surveyor-in-training; application procedure; eligibility requirements

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

1. Submit a completed, typewritten and notarized application which contains information concerning the applicant's background;

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

3. Submit an official transcript indicating the applicant has satisfied the educational requirements set forth in N.J.A.C. 13:40-2.9;

4. Submit a minimum of three references that comply with N.J.A.C. 13:40-2.13 from persons who have personal knowledge of the applicant's experience or training one of whom shall be a licensed land surveyor in the United States; and

5. Submit proof that the applicant has satisfied the language comprehension requirement set forth in N.J.A.C. 13:40-2.14 if the applicant has received an undergraduate degree from a school located in a country where the official language is other than English.

(b) A person in his or her junior or senior year of college pursuing a degree in land surveying shall be permitted to sit for the Part F portion of the examination if:

1. The applicant submits a completed, typewritten and notarized application which contains information concerning the applicants background;

2. The Board receives a letter from the applicant's school indicating that the applicant is currently enrolled as a junior or senior in good academic standing;

3. (No change.)

4. The applicant submits a minimum of three references that comply with N.J.A.C. 13:40-2.13 and are from persons who have personal knowledge of the applicant's experience or training, one of whom shall be a licensed land surveyor in the United States;

5. The applicant pays the application fee required of surveyor-in-training applicants as set forth in N.J.A.C. 13:40-6.1(a)1; and

6. For an applicant who is pursuing an undergraduate degree from a school located in a country where the official language is other than English, the Board receives proof that the applicant has satisfied the language comprehension requirement set forth in N.J.A.C. 13:40-2.14.

13:40-2.7 Land surveyor; application procedures; eligibility requirements

(a) An applicant for licensure as a land surveyor shall submit the following to the Board:

1. A completed, typewritten and notarized application which contains information concerning the applicant's educational and experiential background;

2.-3. (No change.)

4. A minimum of five references that comply with N.J.A.C. 13:40-2.13 from persons who have personal knowledge of the applicant's experience or training, three of whom shall be licensed land surveyors in the United States. The professional references for that portion of the applicant's experience constituting the minimum experience required for licensure shall be licensed land surveyors who were in responsible charge of that minimum experience. If the number of experience engagements necessary to constitute the minimum experience requires more than three professional references to confirm such experience, such additional professional references shall be required. Special circumstances may be considered by the Board at the time of application in such cases where a licensed land surveyor in responsible charge of the work being claimed by the applicant is not available; and

5. For an applicant who has received his or her undergraduate degree from a school located in a country where the official language is other than English, proof that the applicant has satisfied the language comprehension requirement set forth in N.J.A.C. 13:40-2.14.

(b)-(c) (No change.)

13:40-2.8 Education requirements: engineer-in-training and professional engineer

(a) Each applicant shall provide the Board with an official transcript reflecting the degree(s) earned by the applicant. The transcript must be sent directly from the educational institution to the Board and must include the Board-assigned application number of the applicant. In the event that any portion of the curriculum completed by the applicant as part of a master's degree is required to be considered by the Board for the applicant to meet the minimum education standards as set forth in (b) below, the applicant shall not receive the one year of experience credit as permitted by N.J.A.C. 13:40-2.10(b).

(b) An engineering curriculum shall not be accepted for licensure unless approved by the Board and shall consist of the following minimum requirements:

1. 128 semester hours, 80 of which shall consist of:

i. (No change.)

ii. 32 semester hours of engineering sciences; and

iii. (No change.)

2. (No change.)

(c) An engineering technology curriculum shall not be accepted for licensure unless approved by the Board and shall consist of the following minimum requirements:

1. (No change.)

2. For purposes of conversion, one semester hour equals 1.5 quarter hour credits.

(d) An applicant who has attended an educational institution that is both not accredited by the Accreditation Board for Engineering and Technology and not located in the United States shall have his or her degree evaluated by a transcript review service selected and approved by the Board. Reviews by other services other than those selected and approved by the Board shall not be accepted.

(e)-(f) (No change.)

13:40-2.9 Education requirements: land surveyor-in-training; land surveyor

(a) Each applicant shall provide the Board with an official transcript reflecting the degree(s) earned by the applicant. The transcript shall be sent directly from the educational institution to the Board and shall include the Board assigned application number of the applicant. In the event that any portion of the curriculum completed by the applicant as part of a master's degree is required to be considered by the Board for the applicant to meet the minimum education standards as set forth in (b) below the applicant shall not receive the one year of experience credit as permitted by N.J.A.C. 13:40-2.11(b).

(b) A land surveying curriculum shall not be accepted for licensure unless approved by the Board and shall consist of the following minimum requirements:

1. 128 semester hours which shall consist of:

i. 45 semester hours in surveying and mapping science and practice;

(1)-(2) (No change.)

ii. 24 semester hours of math, statistics and general science; and

iii. (No change.)

2. (No change.)

(c)-(e) (No change.)

13:40-2.10 Experience requirements; professional engineer

(a) (No change.)

(b) Except as provided in N.J.A.C. 13:40-2.8(a), completion of a master's degree in engineering shall be substituted for one year of the required professional experience required by (a) above.

(c) Completion of a doctorate degree in engineering shall be substituted for one year of the required professional experience required by (a) above in addition to the amount of substituted experience allowed for the applicant pursuant to (b) above.

(d) Completion of a master's or doctorate degree shall not exempt an applicant from the requirements of (a)1 and (a)2 above.

Recodify existing (d) and (e) as (e) and (f) (No change in text.)

13:40-2.11 Experience requirements; land surveyor

(a) (No change.)

(b) Except as provided in N.J.A.C. 13:40-2.9(a), completion of a master's degree in land surveying shall be substituted for one year of the required professional experience.

(c) Completion of a doctorate degree in land surveying shall be substituted for one year of the required professional experience in addition to the amount of substituted experience allowed for the applicant pursuant to (b) above.

(d)-(e) (No change.)

13:40-2.12 Waiver of the fundamentals of engineering examination

The Board may waive the fundamentals of engineering portion of the licensure examination provided that, in addition to the education requirements at N.J.A.C. 13:40-2.8, the applicant has a specific record of an additional 15 years or more of 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 the 15 years of experience must have been gained in the United States or must have been acquired while working for a United States based firm. At least two years of experience gained in the United States shall be original engineering design experience demonstrating increased responsibility over time. All experience shall be gained under the regular and effective supervision of a licensed professional engineer.

13:40-2.13 References

(a) (No change.)

13:40-2.15 Biennial license renewal; license suspension; reinstatement of suspended license; inactive status

(a) All licenses issued by the Board shall be issued for a biennial license period. A licensee who seeks renewal of the license shall submit prior to the expiration date of the license a completed renewal application, the renewal fee as set forth in N.J.A.C. 13:40-6.1, and, in the case of a land surveyor, a statement that the licensee has successfully completed the continuing competency requirements pursuant to N.J.A.C. 13:40-11.

(b) The Board shall send a notice of renewal to each licensee at the address registered with the Board at least 60 days prior to the expiration of the license. 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 licensee for failure to renew.

(c) 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 completed renewal application, the renewal fee and late fee as set forth in N.J.A.C. 13:40-6.1, and, in the case of a land surveyor, a statement that the licensee has successfully completed the continuing competency requirements pursuant to N.J.A.C. 13:40-11. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be engaged in unauthorized practice.

(d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual with a suspended license who holds himself or herself out as a professional engineer or a land surveyor shall be in violation of N.J.S.A. 45:8-27 and N.J.A.C. 13:40-3.1.

(e) A licensee whose license has been automatically suspended for five years or less for failure to renew pursuant to (d) above may be reinstated by the Board upon completion of the following:

1. Payment of the reinstatement fee and all past delinquent biennial renewal fees as set forth in N.J.A.C. 13:40-6.1;
2. Submission of an affidavit of employment listing each job held during the period of suspended license which includes the name, address, and telephone number of each employer and a listing of every project and report that was signed and sealed by the licensee; and
3. In the case of a land surveyor, submission of proof of completion of the professional development hours required for each biennial licensure period for which the license was suspended.

(f) In addition to fulfilling the requirements set forth in (e) above, a licensee whose license has been automatically suspended for more than five years who wishes to return to practice shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while suspended may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.

(g) Renewal applications shall provide the licensee with the option of either active or inactive status. A licensee electing inactive status shall pay the inactive license fee set forth in N.J.A.C. 13:40-6.1 and shall not hold himself or

herself out as a professional engineer or land surveyor, as the case may be.

(h) A licensee who elected inactive status and has been on inactive status for five years or less may be reactivated by the Board upon completion of the following:

1. Payment of the biennial license fee and reactivation fee pursuant to N.J.A.C. 13:40-6.1;
2. Submission of an affidavit of employment listing each job held during the period the license was on inactive status which includes the name, address, and telephone number of each employer and a listing of every project and report that was signed and sealed by the licensee; and
3. In the case of a land surveyor, submission of proof of completion of the professional development required for each biennial licensure period for which the license was on inactive status.

(i) In addition to fulfilling the requirements set forth in (h) above, a licensee whose license has been on inactive status for more than five years who wishes to return to active status shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while on inactive status may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.

13:40-2.16 Comity

(a)-(b) (No change.)

(c) A record book from the National Council of Examiners for Engineering and Surveying (NCEES) shall be acceptable to the Board only if it is sent directly to the Board office from the National Council of Examiners for Engineering and Surveying. The applicant shall complete the Board application form in its entirety. The record book shall meet the following requirements:

1.-3. (No change.)

13:40-2.17 (Reserved)

SUBCHAPTER 3. LICENSURE REQUIREMENT; EXEMPTIONS; STANDARDS OF PRACTICE; MISCONDUCT

13:40-3.1 Licensure requirement; 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 "land surveyor," "surveyor" or its substantial equivalent or otherwise represent to the public that the person is licensed to practice land surveying in this State unless that person is licensed by the Board.

(c) All professional engineering and 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., N.J.S.A. 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: acceptable measurements by professional engineers

(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 land surveying when such practice does not exceed in the aggregate 30 consecutive days in any calendar years provided that the individual is legally qualified by license to practice professional engineering or land surveying in any State or country 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 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 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 land surveying for that government;

5. An officer or employee for 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 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 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.

*[(d) Nothing in this subchapter 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.

(e) Notwithstanding (d) above, a licensed professional engineer shall not prepare a topographic or any other survey.

(f) When preparing a plan, a licensed professional engineer may transfer existing conditions, including topography, onto the plan only if that information has been taken from a survey prepared by a licensed land surveyor. A signed and sealed copy of the survey utilized by the professional engineer in preparing the plan shall be attached to the plan submittal.]*

13:40-3.3 Advertising

(a) Professional engineers and 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," "land surveyor," "professional engineering," "engineering," "land surveying," "surveying," "professional engineer on staff," "land surveyor on staff," "professional engineering services," "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 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 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 land surveying services.

4. A copy of each advertisement shall be retained by each professional engineer and 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, 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" 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 land surveyor was originally retained.

(b)-(d) (No change.)

13:40-3.5 Enumeration of prohibited acts

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

1.-2. (No change.)

3. Advertising in violation of N.J.A.C. 13:40-3.3.

4. (No change.)

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. (No change.)

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 land surveyor services.

8.-10. (No change.)

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.-14. (No change.)

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.

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. (No change.)

(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)-(d) (No change.)

SUBCHAPTER 5. LAND SURVEYORS; PREPARATION OF LAND SURVEYS

13:40-5.1 Land surveyors; preparation of land surveys

(a)-(c) (No change.)

(d) Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and such other markers as may be authorized by (d)2 below, shall be set either by the licensed land surveyor or under the supervision of the licensed 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 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. (No change.)

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.-vii. (No change.)

viii. Drill holes in durable materials; and

ix. (No change.)

3.-6. (No change.)

7. Monuments where required to be set pursuant to the "Map Filing Law" at N.J.S.A. 46:23-9.11 shall be:

i.-iii. (No change.)

8.-10. (No change.)

(e) (No change.)

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

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

2.-10. (No change.)

(g) Notwithstanding any other provisions of these rules to the contrary, the following items may be omitted where contractual agreements with the client so provide:

1. (No change.)

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. (No change.)

5. Location and type of building and other structures on the property in question; and

6. Metes and bounds description of the property.

(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 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 licensed land surveyor. Certification by the licensed land surveyor may be given when requested by the client.

1. The licensed land surveyor shall also supply a description of the property surveyed when the survey is to be used for conveyancing (title transfer 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 land surveyor responsible for its preparation.

2. (No change.)

(j)-(k) (No change.)

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

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

1.-2. (No change.)

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 Map Filing Law, N.J.S.A. 46:23-9.11(n), and in accordance with N.J.A.C. 13:40-9, Responsible Charge of Engineering or Land Surveying Work.

(n) (No change.)

13:40-6.1 Fee schedule

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

1. (No change.)

Recodify existing 3. and 4. as 2. and 3. (No change in text.)

4. Retired license fee \$ 40.00

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

6.-7. (No change.)

8. Reactivation fee:

i.-ii. (No change.)

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

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

10.-11. (No change.)

Recodify existing 13. and 14. as 12. and 13 (No change in text.)

(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.

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) (No change.)

13:40-7.5 Effect of local ordinances

(a) (No change.)

(b) No municipal or county ordinance, policy or action purporting to define the scope of professional activity of architects, engineers, land surveyors, planners, or certified 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 LAND SURVEYORS

13:40-8.1 Sealing documents

(a) All sealing of documents shall be done with 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 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 digital seals or rubber stamp facsimiles of the seal shall not be permitted.

(b) The application of a signature and seal to documents relating to the practice of professional engineering and/or land surveying shall indicate that the licensee has provided regular and effective supervision to those individuals performing services which 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.-ii. (No change.)

(c) (No change.)

(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)-(f) (No change.)

13:40-8.2 (No change in text.)

13:40-8.3 Title block contents

(a) The title block shall contain:

1. (No change.)

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.-5. (No change.)

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)-(c) (No change.)

Recodify existing 13:40-1.4 through 1.6 as 8.4 through 8.6 (No change in text.)

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 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 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 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 land surveying activities and decisions of the LLC or corporation. All final drawings, papers and documents involving the practice of professional engineering and/or 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 authority and its licensees who are in responsible charge of the professional engineering and/or 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 land surveying activities and decisions of the LLC or corporation.

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 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 which does not have an officer or employee who is in responsible charge and is licensed as a professional engineer and/or 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 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 a licensed land surveyor rendering engineering or surveying services for a business corporation or limited liability company which 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 a licensed 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 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

13:40-11.2 Definitions

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

"Professional development hour" (PDH) means one contact hour of professional/technical development in seminars, conferences or workshops and is equivalent to one continuing professional competency credit as required by N.J.S.A. 45:8-35.2.

13:40-11.6 Credit calculation

(a) Credit for PDHs will be granted as follows for each biennial renewal period:

1. (No change.)
2. Successful completion of approved continuing education courses: one PDH for each contact hour of the course;
- 3.-7. (No change.)

13:40-11.8 Waiver of continuing 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)-(e) (No change.)

13:40-11.12 Responsibilities of program providers

(a) Program providers shall:

1.-2. (No change.)

3. Disclose in advance to prospective participants the course objectives, prerequisites, experience level, content, required advanced preparation, teaching method, and number of PDH credits or contact hours involved in the program;

4.-6. (No change.)

7. Furnish to each enrollee who has successfully completed the program a verification of completion, which shall include at least the following information:

i. -iv. (No change.)

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.

13:40-12.2 Retired licensee: application; entitlement

(a)-(b) (No change.)

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

1. A retired licensee when using the title "Professional Engineer" or "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.-4. (No change.)

(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.

13:40-12.4 Resumption of practice

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

1. (No change.)

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

3. (No change.)

(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 15. HOME INSPECTION ADVISORY COMMITTEE

13:40-15.1 Purpose; scope; applicability

(a) (No change.)

(b) This subchapter shall apply to all persons licensed as home inspectors *[or associate home inspectors]* by the State of New Jersey and applicants for such licensure, performing home inspections of residential buildings with four or fewer dwelling units and other related residential housing components.

(c) No person shall perform or hold oneself out as permitted to perform a home inspection nor represent or call oneself a home inspector unless licensed pursuant to N.J.A.C. 13:40-15.5 or 15.6.

(d) (No change.)

13:40-15.2 Definitions

The following terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Additional inspection services" does not encompass repairs or improvements. "Additional inspection services" means:

1. Tests performed by a home inspector *[or associate home inspector]* which are not part of a home inspection but which, in the opinion of the home inspector *[or associate home inspector]*, are warranted or which the client requests. Such tests include, but are not limited to, radon, asbestos, lead paint, carbon monoxide or urea-formaldehyde testing. Such testing may be performed providing the home inspector *[or associate home inspector]* has the relevant experience, education, training and/or licensing and/or certification to perform such additional tests as set forth in N.J.A.C. 13:40-15.22;
2. Inspecting systems and components which the home inspector *[or associate home inspector]* is not required to, but is not prohibited from, inspecting pursuant to the standards of practice, N.J.A.C. 13:40-15.16;
3. Inspecting systems and components which are not part of the home inspection but which the home inspector *[or associate home inspector]* may inspect if experienced, educated, trained, certified, registered or licensed as set forth in N.J.A.C. 13:40-15.22; and
4. (No change.)

"Additional inspection services" does not encompass repairs or improvements.

["Associate home inspector" means a person who is employed by a licensed home inspector to conduct a home inspection of a residential building under the regular and effective, direct supervision of a licensed home inspector and is licensed pursuant to the provisions of N.J.S.A. 45:8- 62 et seq.]

"Home inspection" means a visual, functional, non-invasive inspection conducted for a fee or any other consideration and performed without moving personal property, furniture, equipment, plants, soil, snow, ice, or debris, using the mandatory equipment and including the preparation of a home inspection report of the readily-accessible elements of the following components of a residential building: structural components, exterior components, roofing system, plumbing system, electrical system, heating system, cooling system, interior components, insulation components and ventilation system, fireplaces and solid fuel burning appliances, or any other related residential housing component as determined by the Board, in consultation with the Committee, by rule, but excluding recreational facilities and outbuildings other than garages or carports.

"Home inspection report" means a written report prepared for a fee or any other consideration by a home inspector *[or associate home inspector]* which:

1.-5. (No change.)

"Licensee" means a home inspector *[or associate home inspector]* licensed by the Committee and subject to this subchapter.

["Regular and effective, direct supervision" means that a licensed home inspector need not be physically present during a home inspection but is accessible to the associate home inspector during the course of the inspection.]

"Significance of findings" means an explanation of the reason the home inspector *[or associate home inspector]* reported that a system or component designated for inspection pursuant to this subchapter contained a material defect, for the purpose of advising the client of the need for appropriate action.

13:40-15.4 Requirements for initial licensure as home inspector (grandfathering)

(a) Pursuant to N.J.S.A. 45:8-72, by December 30, 2005, persons may apply for licensure as a home inspector by completing and submitting to the Committee an application which will require information that the applicant:

1.-3. (No change.)

[4. Has practiced as a home inspector for at least three years prior to December 30, 2005 performing home inspections for which the client was charged a fee;]

*[5.]*4.* Has performed *[at least 300]* home inspections as defined in N.J.A.C. 13:40-15.2 on or before December 30, 2005, *[for which a client was charged a fee,]* *in either of the following numbers:*

*i. 400; or

ii. 300 for at least three years preceding December 30, 2005.*

[6.] *5.* (No change in text.)

(b) An applicant for licensure under this section shall:

1. (No change.)

2. Submit copies of income tax returns, business incorporation papers or similar documentation to verify that the applicant was in the business of performing home inspections for at least three years prior to December 30, 2005; and

3. Submit a list of *[300]* *the* home inspections completed for compensation *as required pursuant to (a)5 above* by December 30, 2005.

(c) The Committee shall randomly audit applications to verify that applicants for licensure as a home inspector under this section performed *[at least 300]* *the* home inspections as required by (a)5 above. Applicants that are audited shall submit copies of home inspection reports as requested by the Committee.

(d) (No change.)

13:40-15.5 *[Requirements for licensure as associate home inspector]* *(Reserved)*

*[(a) An applicant for licensure as an associate home inspector shall complete and submit to the Committee an application which will require information that the applicant:

1. Is of good moral character;

2. Has successfully completed high school or its equivalent;
3. Has successfully completed a home inspector course of study at a school approved by the New Jersey Department of Education;
4. Has performed at least 50 home inspections, including preparation of 50 home inspection training reports, as defined in N.J.A.C. 13:40-15.2, under the direct, on-site supervision of a licensed home inspector;
5. Has, as of December 31, 1999, passed the examination offered by the American Society of Home Inspectors (ASHI) or has, since January 1, 2000, passed the National Home Inspector Examination administered by the Examination Board of Professional Home Inspectors (EBPHI);
6. Maintain an errors and omissions insurance policy in the minimum amount of \$ 500,000 per occurrence; and
7. Pay an application fee as set forth in N.J.A.C. 13:40-15.23.

(b) An applicant for licensure as an associate home inspector under this section shall retain copies of all home inspection training reports for a period of five years upon completion of the report.

(c) The Committee shall randomly audit applications to verify that applicants for licensure as an associate home inspector under this section performed at least 50 home inspections as required by (a)4 above. Applicants that are audited shall submit copies of home inspection training reports as requested by the Committee.]*

13:40-15.6 Requirements for initial licensure as home inspector

(a) An applicant for licensure as a home inspector shall complete and submit to the Committee an application which will require information that the applicant:

1.-2. (No change.)

[3. Has successfully completed at least one year as a licensed associate home inspector as set forth in N.J.A.C. 13:40-15.5;]

3. Has successfully completed an approved course of study of 180 hours, as prescribed by the Board, after consultation with the New Jersey Department of Education, which shall include not less than 40 hours of unpaid field-based inspections in the presence of and under the direct supervision of a licensed home inspector. The inspections shall be provided by the school administering the approved course of study; or

4. Has performed at least 250 home inspections as defined in N.J.A.C. 13:40-15.2 *[as a licensed associate home inspector while employed by and subject to the regular and effective, direct supervision of a licensed home inspector]* for which the client was charged a fee. *The inspections shall be performed in the presence of and under the direct supervision of a licensed home inspector who oversees and takes full responsibility for the inspection and any report produced*;

5.-6. (No change.)

(b)-(c) (No change.)

13:40-15.7 *[Supervision of associate home inspectors]* *(Reserved)*

[All associate home inspectors who are employed by a licensed home inspector shall be under the regular and effective, direct supervision of a licensed home inspector. A licensed home inspector need not be physically present during a home inspection but shall be accessible in the event questions arise, shall consult with the associate home inspector after each inspection to discuss any conclusions drawn from the inspection and shall review and co-sign the resulting home inspection report that is prepared by the associate home inspector.]

13:40-15.8 Insurance requirement

(a) All licensed home inspectors and *[associate home inspectors]* engaged in the profession of home inspection shall maintain an errors and omissions insurance policy in the minimum amount of \$ 500,000 per occurrence and file proof of the policy with the Committee.

(b) (No change.)

(c) Both the home inspector *[or the associate home inspector]* and the insurance company shall provide written notification to the Committee at least 10 days prior to the discontinuation of the errors and omissions policy.

13:40-15.9 Identification cards

(a) All licensed home inspectors *[and associate home inspectors]* shall, during the performance of a home inspection, carry an identification card issued by the Committee. The identification card shall contain the name, photograph, license number and signature of the person to whom the identification card has been issued.

(b) (No change.)

13:40-15.12 Reinstatement of suspended license

(a) An individual whose license has been suspended for nonpayment of a biennial renewal fee may be reinstated by the Committee, provided the applicant otherwise qualifies for licensure pursuant to N.J.S.A. 45:8-68 *[or 69]* and N.J.A.C. 13:40-*[15.5 or]* 15.6, and submits one of the following to the Board:

1. A certification or licensure in good standing from any other state or jurisdiction in which the applicant has practiced as a home inspector *[or associate home inspector]* during the period the license was suspended in this State;

2. An affidavit by the applicant stating that he or she has practiced as a home inspector *[or associate home inspector]* in a state or jurisdiction which does not require certification or licensure, during the period the license was suspended in this State; or

3. An affidavit stating that the applicant has not practiced as a home inspector *[or associate home inspector,]* in this or any other jurisdiction during the period the license was suspended in this State.

(b) An applicant who has practiced as a home inspector *[or an associate home inspector]* in the manner described in (a)1 or 2 above shall submit written verification, on a form provided by the Committee, from all of the applicant's employers. The verification shall document dates of employment from the date the New Jersey license was suspended to the date of application for reinstatement, and the name, address and telephone number of each employer.

(c) An applicant who has been practicing as a home inspector *[or associate home inspector]* in any manner described in (a)1 or 2 above during the period the license was suspended in this State shall submit proof that he or she has completed a minimum of 40 Committee-approved continuing education units pursuant to N.J.A.C. 13:40-15.13 in the two year period immediately prior to application for reinstatement.

(d) An applicant who has not practiced as a home inspector *[or associate home inspector]* during the period the license was suspended in this State shall meet the following requirements as a condition of reinstatement:

1.-3. (No change.)

(e) (No change.)

13:40-15.13 Change of address provision; service of process

(a) A licensed home inspector *[or licensed associate home inspector]* shall notify the Committee in writing of any

change of address from that registered with the Committee and shown on the most recently issued certificate. Such notice shall be sent to the Committee by certified mail, return receipt requested, not later than 30 days following the change of address. Failure to notify the Board of any change of address may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(b)-(c) (No change.)

13:40-15.14 Continuing education requirements

(a) The Committee shall not issue a license renewal unless the applicant attests, when submitting the renewal application sent by the Committee, that he or she has completed courses of continuing professional education of the types and number of units specified in (b), (c) and (d) below. Falsification of any information submitted with the renewal application may result in penalties and/or suspension of the license pursuant to N.J.S.A. 45:1-21 through 25 and N.J.A.C. 13:40-15.20.

(b) (No change.)

(c) A licensee may obtain continuing education units from the following:

1.-2. (No change.)

3. Authorship of a textbook or manual directly related to the practice of home inspection in the State of New Jersey, provided the textbook or manual, as published, is at least 7,500 words in length;

4. Authorship of a published article related to the practice of home inspection in the State of New Jersey, provided the article, as published, is at least 250 words in length; and

5. Direct, on-site supervision of associate home inspectors and/or trainees during home inspections used for training purposes. To qualify for continuing education credit, a home inspection used for training purposes shall require at least one hour to complete and shall not be attended by more than two associate home inspectors and/or trainees in the aggregate.

(d) Credit for continuing education shall be granted as follows for each biennial registration period:

1.-2. (No change.)

3. Successful completion of correspondence, Internet or other distance learning courses approved by the Committee: one continuing education unit per hour of course instruction as determined by the Committee to a maximum of 10 units per biennial registration period;

4. Participation in instructional activities pursuant to (c)2 above: one continuing education unit per hour of program or course instruction to a maximum of 16 units per biennial registration period;

5. Authorship of a textbook or manual pursuant to (c)3 above: 10 continuing education units per textbook or manual to a maximum of 10 units per biennial registration period;

6. Authorship of a published article pursuant to (c)4 above: one continuing education unit per published article to a maximum of 10 units per biennial registration period; and

7. Direct, on-site supervision of associate home inspectors and/or trainees during training home inspections pursuant to (c)5 above: one continuing education unit per home inspection used for training purposes to a maximum of 16 units per biennial registration period.

(e) The Committee shall perform audits of randomly selected licensees to determine compliance with continuing education requirements. A licensee shall maintain the following documentation for a period of five years after completion of the continuing education units and shall submit such documentation to the Committee upon request:

1. (No change.)
2. The published item-for publication of manual, textbook, or article;
3. Documentation, including copy of curriculum, location, date and time of course, duration of course by hour, and letter from sponsor, confirming that the licensee developed or taught the course or program--for developing curriculum or teaching a course or program, including those for realtors and/or civic groups; and
4. Documentation, including the location, date and time, duration, a list of participants, and copies of all completed home inspection training reports--for each training home inspection directly supervised by the licensee.

(f) Waiver, extension or other modification of the continuing education requirements may be granted as follows:

1. The Committee upon receipt of a request for waiver, extension or other modification received at least 90 days prior to license renewal, may waive, extend or otherwise modify the continuing education requirements of this section on an individual basis for reasons of hardship, such as severe illness, disability, or military service; and
2. A licensee seeking a waiver, extension or other modification of the continuing education requirements shall apply to the Committee in writing which must be received at least 90 days prior to license renewal and set forth in specific detail the reasons for the request. The licensee shall provide the Committee with such supplemental materials as will support the request.

(g)-(i) (No change.)

13:40-15.15 Pre-inspection agreements

(a) A home inspector *[or associate home inspector]* shall send a pre-inspection agreement to a client or client's representative, by mail, facsimile, email or other means of delivery, no later than one business day after the appointment for the home inspection is made. The pre-inspection agreement shall be executed prior to the start of the home inspection. The pre-inspection agreement shall contain, at a minimum, the following information:

1.-6. (No change.)

7. A statement that home inspectors *[and associate home inspectors]* are governed by the rules in the New Jersey Administrative Code contained at N.J.A.C. 13:40-15 and that the licensee shall comply with these rules and failure to comply with the rules may subject the licensee to discipline; and

8. (No change.)

(b) (No change.)

(c) The pre-inspection agreement shall indicate whether the home inspector *[or associate home inspector]* will return at a later date to inspect any systems or components which are not inspected because of unforeseen circumstances at the initial home inspection and whether any additional fee will be charged for such subsequent inspection, and the amount of such fee, if any.

(d) (No change.)

13:40-15.16 Standards of practice

(a) All home inspectors *[and associate home inspectors]* shall comply with the standards of practice contained in this section when conducting home inspections. The scope of home inspection services performed in compliance with the requirements set forth in this section shall provide the client with objective information regarding the condition of the systems and components of the home as determined at the time of the home inspection.

(b) Nothing in this section shall be construed to require a home inspector *[or associate home inspector]* to:

1. Enter any area or perform any procedure which is, in the opinion of the home inspector *[or associate home inspector]*, unsafe and likely to be dangerous to the inspector or other persons;

2. Enter any area or perform any procedure which will, in the opinion of the home inspector *[or associate home inspector]*, likely damage the property or its systems or components;

3.-22. (No change.)

(c) Home inspectors *[and associate home inspectors]* shall:

1.-3. (No change.)

(d) Subsection (c) above is not intended to limit home inspectors *[or associate home inspectors]* from:

1. Inspecting or reporting observations and conditions observed in systems and components in addition to those required in (c)1 above and inspecting systems and components other than those mandated for inspection in (c)1 above as long as the inspection and reporting is based on the licensee's professional opinion, prior work experience, education and training, unless these standards of practice prohibit the home inspector *[or associate home inspector]* from inspecting such system or component;

2. Contracting with the client to provide, for an additional fee additional inspection services provided the home inspector *[or associate home inspector]* is educated, trained, certified, registered or licensed, pursuant to the provisions of N.J.A.C. 13:40-15.22 and other applicable statutes and rules; and

3. (No change.)

(e) When conducting the inspection of the structural components, the home inspector *[or associate home inspector]* shall:

1.-4. (No change.)

(f) When conducting the inspection of the exterior components, a home inspector *[or associate home inspector]* shall:

1.-2. (No change.)

(g) When inspecting the roof of a residential building, the home inspector *[or associate home inspector]* shall:

1.-4. (No change.)

(h) When inspecting the plumbing system, a home inspector *[or associate home inspector]* shall:

1.-2. (No change.)

(i) When inspecting the electrical system, a home inspector *[or associate home inspect]* shall:

1.-2. (No change.)

(j) When inspecting the heating system, a home inspector *[or associate home inspector]* shall:

1.-2. (No change.):

(k) When inspecting the cooling system, a home inspector *[or associate home inspector]* shall:

1.-2. (No change.)

(l) When inspecting the interior of a residential building, a home inspector *[or associate home inspector]* shall:

1. (No change.)

(m) When inspecting the insulation components and ventilation system of a residential building, the home inspector *[or associate home inspector]* shall:

1.-2. (No change.)

(n) When inspecting fireplaces and solid fuel burning appliances, a home inspector *[or associate home inspector]* shall:

1.-2. (No change.)

13:40-15.17 Mandatory tools and equipment

(a) All home inspectors *[and associate home inspectors]* shall, during the performance of a home inspection, be equipped with the following minimum tools and equipment:

1.-12. (No change.)

(b) This section is not intended to establish an exclusive list of tools and equipment to be used during the performance of a home inspection. A home inspector *[or associate home inspector]* may utilize any other tools or equipment which in the licensee's professional judgment believes is necessary to adequately perform a home inspection.

13:40-15.18*[,]* Advertising; identification of licensee

(a)-(e) (No change.)

(f) All commercial vehicles used by a home inspector *[or an associate home inspector]* shall be marked on both sides with the following information:

1.-3. (No change.)

(g) All home inspectors *[and associate home inspectors]* who utilize a non-commercial vehicle during the performance of a home inspection shall display on the dashboard of the vehicle a placard issued by the Division which contains the name of the inspector, the inspector's license number and the name of the home inspection business.

(h) (No change.)

13:40-15.19 Prohibited practices

(a) It is a prohibited practice for a home inspector *[or associate home inspector]* to do any of the following:

1.-17. (No change.)

18. Employ any person as a home inspector *[or associate home inspector]* who is not licensed as a home inspector *[or associate home inspector]*;

[19. Fail to supervise an associate home inspector or a person who is training to be an associate home inspector;]

[20.] *19.* Practice as a home inspector *[or associate home inspector]* without a license, with a suspended license or during inactive status;

Recodify existing 21.-24. as *20.-23.* (No change in text.)

(b) (No change.)

13:40-15.20 Suspension, revocation or refusal to renew license

(a)-(b) (No change.)

(c) The Committee may order a licensed home inspector *[or associate home inspector]* to complete continuing education units as all or part of the civil penalty imposed for disciplinary measures.

(d)-(e) (No change.)

13:40-15.21 Requirements for licensure as a home inspector *[or associate home inspector]* by comity

(a) Any person with a valid registration, certification, or license issued by another state or possession of the United States or the District of Columbia may, upon the submission of an application provided by the Committee and payment of the fee in N.J.A.C. 13:40-15.23, be issued a license as a home inspector *[or associate home inspector whichever applies to the applicant's experience at the time of application]*, provided that:

1.-3. (No change.)

13:40-15.22 Inspection services requiring additional experience, education, training, or license or certification

(a) A licensed home inspector *[or licensed associate home inspector]* may perform the following additional inspection services if the licensee has the experience, education, training, license or certification indicated:

1.-10. (No change.)

13:40-15.23 Fee schedule

(a) The Committee shall charge the following fees:

1. Application fee:

i. Home inspector \$ 125.00

[ii. Associate home inspector 25.00]

2. Initial license fee:

i. Home inspector 500.00

ii. Issued during the second year of a biennial 250.00 renewal period

*[iii. Associate home inspector 350.00

iv. Issued during the second year of a biennial 175.00]* renewal period

3. Renewal license fee:

i. Home inspector 500.00

[ii. Associate home inspector 350.00]

[iii.] *ii.* (No change in text.)

4.-6. (No change.)

*13:40-15.24 Issuance of home inspector license based on associate home inspector license or experience

(a) By April 26, 2006, persons holding an associate home inspector's license before April 26, 2006, may apply for licensure as a home inspector by completing and submitting to the Committee an application showing that the associate home inspector:

1. Had been engaged in the practice of home inspections for compensation for at least three years prior to December 30, 2005 and had performed at least 300 home inspections for compensation prior to December 30, 2005; or
2. Had performed at least 400 home inspections for compensation prior to December 30, 2005.

(b) Upon application submitted by April 26, 2006, the Committee shall issue a home inspector license to any person who:

1. Has submitted an application for an associate home inspector license that has been approved by the Committee before December 30, 2005; or
2. Has satisfied the requirements of N.J.S.A. 45:8-69 and N.J.A.C. 13:40-15.5 and has completed not less than 40 hours of unpaid field-based inspections in the presence of and under the direct supervision of a licensed home inspector before December 30, 2005.*