

CHAPTER 40

STATE BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

Authority

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

Source and Effective Date

R.2011 d.212, effective July 12, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Chapter Expiration Date

Chapter 40, State Board of Professional Engineers and Land Surveyors, expires on July 12, 2018.

Chapter Historical Note

Chapter 40, State Board of Professional Engineers and Land Surveyors, was adopted and became effective prior to September 1, 1969.

Subchapter 7, Permissible Division of Responsibility in Submission of Site Plans and Major Subdivision Plats, was adopted as R.1981 d.320, effective September 10, 1981. See: 13 N.J.R. 231(a), 13 N.J.R. 607(a).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Fees, was readopted as R.1983 d.418, effective September 15, 1983. See: 15 N.J.R. 1077(a), 15 N.J.R. 1667(a).

Subchapter 8, Maintenance of Project Records, was adopted as R.1985 d.225, effective May 6, 1985. See: 16 N.J.R. 1027(a), 17 N.J.R. 1133(a).

Subchapter 9, Responsible Charge of Engineering or Land Surveying Work, was adopted as R.1985 d.222, effective May 6, 1985. See: 16 N.J.R. 2067(b), 17 N.J.R. 1134(a).

Subchapter 1, Title Blocks for Professional Engineers, was repealed and Subchapter 1, Title Blocks and Seals for Professional Engineers and Land Surveyors, was adopted as new rules, and Subchapter 2, Title Blocks for Land Surveyors, was repealed by R.1985 d.694, effective January 21, 1986. See: 17 N.J.R. 2602(b), 18 N.J.R. 205(a).

Subchapter 2, Application Requirements, was adopted as new rules by R.1987 d.355, effective September 8, 1987. See: 19 N.J.R. 851(a), 19 N.J.R. 1649(b).

Subchapter 10, Contract to Provide Professional Services, was adopted as R.1989 d.64, effective February 6, 1989. See: 20 N.J.R. 2243(b), 21 N.J.R. 339(a).

Pursuant to Executive Order No. 66(1978), Chapter 40, State Board of Professional Engineers and Land Surveyors, was readopted as R.1990 d.434, effective August 3, 1990. See: 22 N.J.R. 1867(a), 22 N.J.R. 2747(b).

Petition for Rulemaking. See: 25 N.J.R. 3032(a), 25 N.J.R. 3871(a).

Subchapter 11, Land Surveyors; Continuing Competency, was adopted as R.1995 d.305, effective June 19, 1995. See: 26 N.J.R. 4314(a), 27 N.J.R. 2415(a).

Pursuant to Executive Order No. 66(1978), Chapter 40, State Board of Professional Engineers and Land Surveyors, was readopted as R.1995 d.474, effective August 2, 1995. See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Subchapter 12, Retired License and No-Fee Retired License Status, was adopted as R.1998 d.224, effective May 4, 1998. See: 30 N.J.R. 290(a), 30 N.J.R. 1618(a).

Pursuant to Executive Order No. 66(1978), Chapter 40, State Board of Professional Engineers and Land Surveyors, was readopted as R.2000

d.355, effective August 1, 2000. See: 32 N.J.R. 1906(a), 32 N.J.R. 3328(a).

Subchapter 15, Home Inspection Advisory Committee, was adopted as new rules by R.2002 d.169, effective June 3, 2002. See: 33 N.J.R. 1318(a), 34 N.J.R. 1935(a).

Chapter 40, State Board of Professional Engineers and Land Surveyors, was readopted as R.2006 d.80, effective January 26, 2006. See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 40, State Board of Professional Engineers and Land Surveyors, was scheduled to expire on July 25, 2013. See: 43 N.J.R. 1203(a).

Chapter 40, State Board of Professional Engineers and Land Surveyors, was readopted as R.2011 d.212, effective July 12, 2011. As a part of R.2011 d.212, Subchapter 5, Land Surveyors; Preparation of Land Surveys, was renamed Professional Land Surveyors; Preparation of Land Surveys; and Subchapter 8, Sealing and Title Block Requirements for Professional Engineers and Land Surveyors, was renamed Sealing and Title Block Requirements for Professional Engineers and Professional Land Surveyors, effective August 15, 2011. See: Source and Effective Date. See, also, section annotations.

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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.

New Rule, R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Former N.J.A.C. 13:40-1.1, Sealing documents, recodified as N.J.A.C. 13:40-8.1.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Inserted "professional" preceding "land".

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.

New Rule, R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Former N.J.A.C. 13:40-1.2, Title block on drawings; forms; removal, recodified as N.J.A.C. 13:40-8.2.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Inserted "professional" preceding "land" twice, and substituted "and/or" for "and" following "surveying".

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, professional land surveyors, professional planners and licensed 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 com-

pletion 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.

“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.

“Responsible charge” means the rendering of regular and effective supervision by a competent professional engineer or professional land surveyor to those individuals performing services that 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.

New Rule, R.2006 d.80, effective February 21, 2006.

Sec: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Former N.J.A.C. 13:40-1.3, Title block contents, recodified as N.J.A.C. 13:40-8.3.

Petition for Rulemaking.

Sec: 38 N.J.R. 5179(a).

Petition for Rulemaking.

Sec: 39 N.J.R. 263(b), 1323(a).

Amended by R.2011 d.212, effective August 15, 2011.

Sec: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In definitions “Closely allied professionals”, “License”, “Professional business entity” and “Responsible charge”, inserted “professional” preceding “land”; in definition “Closely allied professionals”, substituted “licensed” for “certified”; in definition “‘Land surveying’ or ‘surveying’ or ‘practice of land surveying’ ”, inserted a comma following “work”, and deleted “topography including” preceding “natural”; and in definition “Responsible charge”, substituted “that” for “which”.

13:40-1.4 (Reserved)

Recodified as N.J.A.C. 13:40-8.4 by R.2006 d.80, effective February 21, 2006.

Sec: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
Section was “Proposed title block form.”

13:40-1.5 (Reserved)

Recodified as N.J.A.C. 13:40-8.5 by R.2006 d.80, effective February 21, 2006.

Sec: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Section was “Title block use for professional engineer and land surveyor work project.”

13:40-1.6 (Reserved)

Recodified as N.J.A.C. 13:40-8.6 by R.2006 d.80, effective February 21, 2006.

Sec: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Section was “Subtitle block of independent professional.”

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.

New Rule, R.2000 d.195, effective May 15, 2000.

Sec: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Former N.J.A.C. 13:40-2.1, Form, repealed.

Amended by R.2006 d.80, effective February 21, 2006.

Sec: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote the former section; (c) recodified from N.J.A.C. 13:40-2.2 with removal of N.J.A.C. reference.

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 sup-

plemental 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.

New Rule, R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Recodified from N.J.A.C. 13:40-2.15 and amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a), substituted "a completed application" for "an application" and deleted N.J.A.C. reference; in (b), substituted "the examiner" for N.J.A.C. reference; former N.J.A.C. 13:40-2.2, Failure to timely submit application, recodified as N.J.A.C. 13:40-2.1(c).

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) An applicant whose application has been canceled may reapply and shall satisfy the eligibility requirements of the rules applicable at the time of the new application. Once the reapplication is approved, the application shall be deemed valid for five years from the date of reapproval.

(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.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

New Rule, R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Former N.J.A.C. 13:40-2.3, Education, recodified to N.J.A.C. 13:40-2.8.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a), deleted "submitted after May 15, 2000"; in (c), added "other" and deleted reference to N.J.A.C. 13:40-2.1(a).

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)1;

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 engineering education, 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. The Board receives an official transcript from the applicant's school indicating the courses completed by the applicant to date;

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 engineering education, 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.

(c) The Board shall issue a certificate of registration as an engineer-in-training to a person meeting the requirements of (b) above, upon the person meeting the requirements of (a)3 above.

New Rule, R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Former N.J.A.C. 13:40-2.4, Language comprehension requirement, recodified to N.J.A.C. 13:40-2.14.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote the section; section heading was "Engineer-in-training; application procedure; eligibility requirements."

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a)4, inserted "engineering education,"; in (b)4, inserted "engineering education"; and added (c).

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

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. Part P—Principles and Practices of Engineering (this portion of the examination shall be taken after the applicant satisfies the experience requirements set forth in N.J.A.C. 13:40-2.10); and

3. The New Jersey Law portion.

(c) If the applicant is seeking licensure by comity, in addition to meeting the requirements in (a) above, the applicant shall also:

1. Submit proof of successful completion of the examination requirements set forth in (b) above; and

2. Comply with the requirements set forth in N.J.A.C. 13:40-2.16.

New Rule, R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Former N.J.A.C. 13:40-2.5, Experience, recodified to N.J.A.C. 13:40-2.10.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a)1, added " , typewritten and authorized"; in (a)3, added "in either engineering or engineering technology"; rewrote (a)4; in (a)5, added "school located in a"; in (b)1, added "which may be waived by the Board pursuant to N.J.A.C. 13:40-2.12";

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 surveying education, experience or training, one of whom shall be a licensed professional 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. The Board receives an official transcript from the applicant's school indicating the courses completed by the applicant to date;

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.

(c) The Board shall issue a certificate of registration as a surveyor-in-training to a person meeting the requirements of (b) above upon the person meeting the requirements of (a)3 above.

New Rule, R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Former N.J.A.C. 13:40-2.6, References, recodified to N.J.A.C. 13:40-2.13.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote the section.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a)4, inserted "surveying education", a comma following "training" and inserted "professional"; and added (c).

13:40-2.7 Professional land surveyor; application procedures; eligibility requirements

(a) An applicant for licensure as a professional 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. The application fee set forth in N.J.A.C. 13:40-6.1(a)1;

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

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 land surveyors in the United States. The professional references for that portion of the applicant's experience constituting the mini-

um experience required for licensure shall be licensed professional 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 professional 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) To be eligible for licensure, an applicant shall have successfully completed the four-part examination consisting of:

1. Part F—Fundamentals of Land Surveying;

2. Part P—Principles and Practices of Land Surveying (this portion of the examination shall be taken after the applicant satisfies the experience requirements set forth in N.J.A.C. 13:40-2.11);

3. The New Jersey State-specific examination (this portion of the examination shall be taken after the applicant satisfies the experience requirements set forth in N.J.A.C. 13:40-2.11); and

4. The New Jersey law portion.

(c) If the applicant is seeking licensure by comity, in addition to meeting the requirements in (a) above, the applicant shall also comply with the requirements set forth in N.J.A.C. 13:40-2.16 and submit proof that the applicant has successfully passed the examination for licensure consisting of the materials set forth in (b) above.

New Rule, R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Former N.J.A.C. 13:40-2.7, Comity, recodified to N.J.A.C. 13:40-2.16.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a)1, added ", typewritten and authorized"; rewrote (a)4; in (a)5, added "school located in a."

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Land surveyor; application procedures; eligibility requirements". In the introductory paragraph of (a) and in (a)4, inserted "professional" preceding "land" throughout.

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) A bachelor's degree in an engineering program accredited by the Engineering Accreditation Commission of ABET, Inc., shall be accepted for licensure.

(c) A bachelor's degree in an engineering technology program accredited by the Technology Accreditation Commission of ABET, Inc. (TAC/ABET) shall be accepted for licensure.

(d) An applicant with a degree from a college or university that is not accredited by the Accreditation Board for Engineering and Technology shall obtain, at his or her own expense, and shall submit to the Board a detailed evaluation of his or her degree from a transcript review service recommended by the Board.

(e) Transcripts shall be sent directly from the applicant's school and shall contain an official registrar's seal.

(f) An applicant with a non-United States degree who has documented that due to political or economic sanctions the applicant is unable to have the transcript sent directly from the school to the Board or its designee shall submit his or her original transcript to the Board-approved transcript review service. The applicant shall also provide a literal, verbatim English translation, certified to be accurate by a certified translator. The applicant shall also comply with all information requests by the Board-approved transcript review service.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Recodified from N.J.A.C. 13:40-2.3 and amended by R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

In (a), substituted a reference to educational institutions for a reference to institutions; deleted former (d) and (e); recodified former (f) and (g) as (d) and (e); in the new (d), substituted a reference to educational institutions for a reference to institutions, and substituted "other than those selected and approved by the Board shall" for "will" following "services"; and added a new (f). Former N.J.A.C. 13:40-2.8, Waiver, recodified to N.J.A.C. 13:40-2.12.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a), added the third sentence; in introductory paragraphs (b) and (c), substituted "An engineering" for "Engineering"; in (b)ii, added "and"; added (c)2; in (d), added "that is both not accredited by the Accreditation Board for Engineering and Technology and."

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Rewrote (b), (c) and (d).

13:40-2.9 Education requirements: land surveyor-in-training; professional 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 bachelor's degree in a land surveying program accredited by the Technology Accreditation Commission of ABET, Inc., shall be accepted for licensure.

(c) Any applicant with a degree from a college or university that is not accredited by the Accreditation Board for Engineering and Technology shall obtain, at his or her own expense, and shall submit to the Board, a detailed evaluation of his or her degree from a transcript review service selected and approved by the Board. Reviews by services other than those selected and approved by the Board shall not be accepted.

(d) Transcripts shall be sent directly from the applicant's school and shall contain an official registrar's seal.

(e) An applicant with a non-United States degree who has documented that due to political or economic sanctions the applicant is unable to have the transcript sent directly from the school to the Board or its designee shall submit an original transcript to the Board-approved transcript review service. The applicant shall also provide a literal, verbatim English translation, certified to be accurate by a certified translator. The applicant shall also comply with all information requests by the Board-approved transcript review service.

New Rule, R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Former N.J.A.C. 13:40-2.9, Cancellation of application, repealed.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a), added the last sentence; grammatical and stylistic changes were made in (b).

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Education requirements: land surveyor-in-training; land surveyor". Rewrote (b) and (c).

13:40-2.10 Experience requirements; professional engineer

(a) An applicant for a professional engineering license who is applying to sit for the principles and practices exam shall have four years of professional experience that the Board determines is consistent with the requirements of N.J.S.A. 45:8-28(b) which shall be gained under the regular and effective supervision of a licensed professional engineer.

1. Two years of professional experience shall be gained in the United States; and

2. Two years of professional experience shall be engineering design experience that the Board determines has demonstrated increased responsibility and increased technical expertise over time.

(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.

(e) Experience prior to graduation from a Board approved program will be evaluated by the Board on a case-by-case basis if 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.

(f) All information submitted to the Board shall be legible and placed on forms provided by the Board.

Amended by R.1995 d.474, effective September 5, 1995.
See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).
Recodified from N.J.A.C. 13:40-2.5 and amended by R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).
Rewrote the section. Former N.J.A.C. 13:40-2.10, Review of examination, recodified to N.J.A.C. 13:40-2.17.
Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote the section.
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a)2, deleted "original" preceding "engineering".

13:40-2.11 Experience requirements; professional land surveyor

(a) An applicant for a professional land surveying license shall obtain at least three years of experience that the Board determines is consistent with the requirements of N.J.S.A. 45:8-28(e), which shall be original land surveying experience that the Board determines has demonstrated increased responsibility and increased technical expertise over time. All experience shall be gained in the United States under the regular and effective supervision of a licensed professional land surveyor.

(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) Experience prior to graduation from a Board approved program shall be evaluated by the Board on a case-by-case basis if 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.

(e) All information submitted to the Board shall be legible and placed on forms provided by the Board.

New Rule, R.2000 d.195, effective May 15, 2000.
See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).
Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote (b) and (c).
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Experience requirements; land surveyor". In (a), inserted "professional" twice and inserted a comma preceding "which".

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.

Amended by R.1995 d.474, effective September 5, 1995.
See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).
Recodified from N.J.A.C. 13:40-2.8 and amended by R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).
Rewrote the section.
Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
Deleted "at the time of application."

13:40-2.13 References

(a) The following provisions apply in the submission of references:

1. References will not be accepted from relatives of the applicant.
2. No current Board member shall be used as a reference.
3. All reference forms must contain the applicant's Board assigned number.
4. No references over one year old will be accepted.

5. References shall attest whether the applicant is qualified to be placed in responsible charge.

Amended by R.1995 d.474, effective September 5, 1995.
See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).
Recodified from N.J.A.C. 13:40-2.6 and amended by R.2000 d.195, effective May 15, 2000.
See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).
Rewrote the section.
Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
Deleted (b).

13:40-2.14 Language comprehension requirement

(a) Any applicant who received an undergraduate degree from a country where the official language is other than English, prior to taking the examination shall submit to the Board a TOEFL (Test of English as a Foreign Language) certificate from Educational Testing Service with a minimum overall score of 90. This is an internet based test, which evaluates an applicant's abilities in the areas of reading, listening, speaking and writing. Additional information may be obtained from Educational Testing Service at www.ets.org. This test shall have been taken within two years of application.

(b) The following applicants shall be exempt from the requirements of (a) above:

1. An applicant who is an American citizen at the time of obtaining his or her undergraduate degree from a college or university in a country where the official language is other than English;
2. An applicant who has received an undergraduate degree from a foreign country where the official language is English; or
3. An applicant who has received a graduate degree from a college or university located in the United States.

Amended by R.1995 d.474, effective September 5, 1995.
See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).
Recodified from N.J.A.C. 13:40-2.4 and amended by R.2000 d.195, effective May 15, 2000.
See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).
Rewrote the section.
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).
Rewrote (a).

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 professional 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 professional land surveyor, submission of proof of completion of the continuing competency 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 professional 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 professional land surveyor, submission of proof of completion of the continuing competency required for each biennial licensure period for which the licensee 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.

New Rule, R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Former N.J.A.C. 13:40-2.15, Scheduling of examination, recodified as N.J.A.C. 13:40-2.2.

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (d), (e)3, (g), and (h)3, inserted "professional" preceding "land" throughout; in (e)3, substituted "continuing competency" for "professional development hours required"; and in (h)3, substituted "continuing competency" for "professional development" and "licensee" for "license".

13:40-2.16 Comity

(a) Comity licensure pursuant to N.J.S.A. 45:8-35(1)(e) and 2(d) shall be granted provided that education, experience, and examination requirements for licensure by the issuing agency are comparable to the requirements of the State of New Jersey at the time of the applicant's initial licensure. For purposes of comity licensure, N.J.S.A. 45:8-27 et seq. does not contain an eminence or grandfather clause, nor provide reciprocity with any state, territory or country.

(b) The out-of-State license relied upon by an applicant for purposes of comity licensure in New Jersey must be current and in good standing. In the case of multiple state licensure, all out-of-state licenses obtained prior to applying for comity licensure in New Jersey must be in good standing whether active or inactive, in order for licensure pursuant to N.J.S.A. 45:8-35(1) (e) and (2)(d) to be granted.

(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 Sur-

veying. The applicant shall complete the Board application form in its entirety. The record book shall meet the following requirements:

1. The book shall be labeled with the application number;
2. References over one year old will not be accepted; and
3. All references and transcripts shall be submitted to the Board in conformance with N.J.A.C. 13:40-2.4 through 2.13.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Recodified from N.J.A.C. 13:40-2.7 and amended by R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Rewrote (a) and (b); and in (c)3, changed N.J.A.C. reference.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (c), deleted "the personal data portion of."

13:40-2.17 (Reserved)

Repealed by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Section was "Review of examination."

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 "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.

New Rule, R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Former N.J.A.C. 13:40-3.1, Enumeration of prohibited acts, recodified as N.J.A.C. 13:40-3.5.

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (b) and (c), inserted "professional" preceding "land" throughout; and in (c), deleted "N.J.S.A." preceding "45:4B-1".

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) 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.

New Rule, R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Former N.J.A.C. 13:40-3.2, Reporting incidents of professional misconduct, recodified as N.J.A.C. 13:40-3.6.

Petition for Rulemaking.

See: 38 N.J.R. 5179(a).

Petition for Rulemaking.

See: 39 N.J.R. 263(b), 1323(a).

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Licensure exemptions: acceptable measurements by professional engineers". In (a)1, (a)2, (a)4, (a)5, and (a)8, inserted "professional" preceding "land" throughout; in (a)1, substituted "year" for "years"; in (a)4, substituted "the" for "that" preceding "government"; and in (a)5, substituted "of" for "for" following "employee", and deleted a period following "entitled".

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.

New Rule, R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Inserted "professional" preceding "land" throughout; and in (a)3, substituted "principal, partner or" for "principal, partner, or"; and inserted a comma following "advertisement".

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.

Amended by R.1995 d.474, effective September 5, 1995.
See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).
Recodified from N.J.A.C. 13:40-8.1 and amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
In (a), substituted "section" for "subchapter."
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a), (b), the introductory paragraph of (c) and in (d), inserted "professional" preceding "land surveyor" throughout; in (a), inserted "whether electronic, digital or in written form", deleted a comma following "notes" and inserted a comma following "defined"; in (b), inserted "the" preceding "possession"; in the introductory paragraph of (c), inserted ", whether electronic, digital or written form,"; in the introductory paragraph of (c)2, inserted a comma following "documents"; in the disclaimer following (c)2, substituted "document" for "drawing/map/plot" twice; and in (d), substituted "section" for "rule".

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 which involves him in a conflict of interest, including without limitation:

i. A licensee shall inform his client or employer of any business connection, interest or circumstance which might be deemed as influencing his judgment or the quality of his 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 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 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 material or equipment suppliers for specifying their product.

vi. 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.

R.1970 d.67, eff. June 8, 1970.

See: 2 N.J.R. 35(a), 2 N.J.R. 55(g).

As amended, R.1976 d.228, eff. July 21, 1976.

See: 8 N.J.R. 250(a), 8 N.J.R. 402(a).

As amended, R.1983 d.16, eff. February 7, 1983.

See: 14 N.J.R. 1196(b), 15 N.J.R. 158(a).

Deleted reference to N.J.S.A. 45:8-38. Also deleted language concerning "practice likely to discredit or reflect unfavorably upon the dignity or honor of the profession." Also deleted limitations on listings.

As amended, R.1984 d.486, eff. November 5, 1984.

See: 16 N.J.R. 1321(a), 16 N.J.R. 3055(a).

Section recodified.

Amended by R.1987 d.355, effective September 8, 1987.

See: 19 N.J.R. 851(a), 19 N.J.R. 1649(a).

Added (a)8, 9 and 10.

Amended by R.1988 d.394, effective August 15, 1988.
See: 20 N.J.R. 736(a), 20 N.J.R. 2068(a).

Substantially amended.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Amended by R.2005 d.280, effective September 6, 2005.

See: 36 N.J.R. 3500(a), 37 N.J.R. 3440(a).

In (a), added 14.

Recodified from N.J.A.C. 13:40-3.1 and amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote (a)3, in (a)5, deleted "*" throughout; in (a)7, added "et seq. or this chapter"; in (a)11, added "State."

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In the introductory paragraph of (a), inserted "professional" preceding "land"; in (a)7, substituted "professional land surveying" for "land surveyor"; and in (a)12, deleted a comma following "education" and inserted "professional" preceding the second occurrence of "land".

Case Notes

License revocation. (Decided on statutory grounds). *Hyland v. Ponzio*, 159 N.J.Super. 233, 387 A.2d 1206 (App.Div.1978).

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.

New Rule, R.1985 d.465, effective September 3, 1985.

See: 17 N.J.R. 799(a), 17 N.J.R. 2140(a).

Recodified from N.J.A.C. 13:40-3.2 and amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Added "State."

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.

New Rule, R.1985 d.465, effective September 5, 1985.

See: 17 N.J.R. 799(a), 17 N.J.R. 2140(a).

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In introductory paragraph (a), added "State"; in (b), deleted N.J.S.A. reference; in (c), deleted "currently" and N.J.A.C. reference and added "when service by certified or regular mail is acceptable and shall allow."

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.

New Rule, R.2004 d.22, effective January 20, 2004.
See: 35 N.J.R. 503(a), 36 N.J.R. 526(a).
Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
In (a), added "State."

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.

(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 by (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 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 "Map Filing Law" at N.J.S.A. 46:23-9.11 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 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 widths 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 these rules 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.

(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 licensed 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 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 re-

produced 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 must be prepared by a licensed professional land surveyor, who is obligated to prepare 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, 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 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) Maps prepared to show topographic data or planimetric data, which also delineate property lines or street right-of-way lines thereon 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.

R.1977 d.160, effective May 5, 1977.

See: 8 N.J.R. 560(b), 9 N.J.R. 290(a).

As amended, R.1984 d.401, effective September 4, 1984.

See: 15 N.J.R. 1834(a), 16 N.J.R. 2369, 16 N.J.R. 2824(a).

Section substantially amended. Correction in (d): "corner not previously".

Amended by R.1985 d.465, effective September 3, 1985.

See: 17 N.J.R. 799(a), 17 N.J.R. 2140(a).

Added text in (d)3: "including monuments set in accordance with the map filing law."

Amended by R.1987 d.215, effective May 18, 1987.

See: 18 N.J.R. 2367(b), 19 N.J.R. 881(b).

Subsection (i) amended to clarify policies of the Board which may not have been expressly understood by all land surveyors.

Amended by R.1988 d.45, effective January 19, 1988.

See: 19 N.J.R. 1631(a), 20 N.J.R. 203(a).

Added text to (d) defining the "ultimate user".

Amended by R.1993 d.60, effective February 1, 1993.

See: 24 N.J.R. 51(a), 24 N.J.R. 554(a), 25 N.J.R. 596(a).

Revised (d).

Amended by R.1994 d.77, effective February 7, 1994.

See: 25 N.J.R. 5447(b), 26 N.J.R. 822(a).

Amended by R.2002 d.322, effective October 7, 2002.

See: 33 N.J.R. 3241(a), 34 N.J.R. 1768(a), 34 N.J.R. 3532(c).

Rewrote (d); in (g), substituted "or otherwise" for "and" and inserted "lines" preceding "in question" in 2 and inserted "lines" preceding "in question" in 3; in (m), rewrote the introductory paragraph.

Amended by R.2002 d.321, effective February 3, 2003.

See: 33 N.J.R. 3241(a), 34 N.J.R. 1768(a), 35 N.J.R. 618(a).

In (d), deleted "Waiver and Direction not to set corner markers" statement.

Amended by R.2005 d.280, effective September 6, 2005.

See: 36 N.J.R. 3500(a), 37 N.J.R. 3440(a).

In rule heading, added "; setting of corner markers" following "land surveys"; in (d), added ", 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" to the end of the paragraph.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote the section, including correcting rule and statute citations and making grammatical corrections.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Land surveyors; preparation of land surveys". Inserted "professional" preceding "land surveyor" throughout; in the introductory paragraph of (d), deleted a comma following "monuments"; in the introductory paragraph of (f), substituted "that" for "which"; and rewrote (f)3 and (n).

13:40-5.2 Waiver of corner marker

(a) For purposes of this section, "ultimate user" means the contract purchaser of the property. If no purchaser exists, the ultimate user is the owner of the property. In cases where there are multiple ultimate users of the property being surveyed, only one ultimate user is required to sign the waiver.

(b) Whenever the setting of corner markers is waived by the ultimate user, the professional land surveyor shall:

1. Advise the ultimate user in writing as set forth in (c) below of the impact of signing the corner marker waiver. Such advice shall include, but not be limited to:

- i. The possible need for a future survey as a result of physical improvements to the property; and
- ii. The potential inability of the ultimate user to identify the boundary of the property;

2. Review the waiver to ensure that it is properly signed by the ultimate user and witnessed by a person other than a professional land surveyor; and

3. Perform a physical measurement of the property.

(c) The corner marker waiver shall be in the following form:

WAIVER AND DIRECTION NOT TO SET CORNER MARKERS
 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.

New Rule by R.2005 d.280, effective September 6, 2005.
 See: 36 N.J.R. 3500(a), 37 N.J.R. 3440(a).
 Amended by R.2011 d.212, effective August 15, 2011.
 See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).
 In the introductory paragraph of (b) and in (b)2, inserted "professional" preceding "land".

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 the 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.

R.1978 d.193, effective June 9, 1978.
 See: 10 N.J.R. 71(a), 10 N.J.R. 295(d).
 Amended by R.1980 d.417, effective September 25, 1980.
 See: 12 N.J.R. 493(a), 12 N.J.R. 671(b).
 (a)7: Material concerning fees for transmittal of grades or certification repealed; renumbered (a)8 as (a)7.
 Amended by R.1983 d.148, effective May 16, 1983.
 See: 15 N.J.R. 78(b), 15 N.J.R. 807(c).
 Increased professional engineering specialized training fee from \$15.00 to \$30.00 and land surveyor two parts from \$15.00 to \$60.00.
 Amended by R.1986 d.37, effective February 18, 1986.
 See: 17 N.J.R. 2860(a), 18 N.J.R. 421(b).
 Fees were raised and section was substantially amended.
 Amended by R.1987 d.355, effective September 8, 1987.
 See: 19 N.J.R. 851(a), 19 N.J.R. 1649(a).
 Added (a)9 and 10.
 Amended by R.1991 d.285, effective June 3, 1991.
 See: 22 N.J.R. 3315(a), 23 N.J.R. 1816(a).
 Added (b).
 Amended by R.1992 d.247, effective June 15, 1992.
 See: 24 N.J.R. 1231(a), 24 N.J.R. 2285(a).
 Revised (a).
 Amended by R.1995 d.305, effective June 19, 1995.
 See: 26 N.J.R. 4314(a), 27 N.J.R. 2415(a).
 Amended by R.1995 d.474, effective September 5, 1995.
 See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).
 Amended by R.1996 d.580, effective December 16, 1996.
 See: 28 N.J.R. 4169(a), 28 N.J.R. 5182(a).
 Added (a)9i.
 Amended by R.1998 d.224, effective May 4, 1998.
 See: 30 N.J.R. 290(a), 30 N.J.R. 1618(a).
 Inserted a new (a)liii and recodified former iii as iv; inserted a new (a)5 and recodified former 5 and 6 as 6 and 7; and inserted a new (a)8 and recodified former 7 through 13 as 9 through 15.
 Administrative correction.
 See: 38 N.J.R. 829(a).
 Amended by R.2006 d.80, effective February 21, 2006.
 See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
 Rewrote the section, including removing examination fees.

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.

Public Notice: Notice Regarding Preparation of Topographic Surveys and Existing Conditions Depicted on Site Plans.
 See: 36 N.J.R. 5008(a).
 Amended by R.2006 d.80, effective February 21, 2006.
 See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
 In (a), corrected the statutory citation to Municipal Land Use Law.

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.

Amended by R.1991 d.550, effective November 4, 1991.
 See: 23 N.J.R. 1516(a), 23 N.J.R. 3337(b).
 In (b), added "certified landscape architect".
 Amended by R.1994 d.322, effective July 5, 1994.
 See: 26 N.J.R. 1221(a), 26 N.J.R. 2796(a).
 Administrative Correction.
 See: 26 N.J.R. 3180(b).
 Amended by R.2011 d.212, effective August 15, 2011.
 See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).
 In (b), deleted a comma following "determination", "buildings" and "architect" and substituted "licensed" for "certified".

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 or engineer.

(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.

Amended by R.1991 d.550, effective November 4, 1991.

See: 23 N.J.R. 1516(a), 23 N.J.R. 3337(b).

In (b), (i) and (j) added "certified landscape architect."

In (j), changed "preliminary" to "conceptual."

Administrative correction.

See: 30 N.J.R. 2261(a).

Administrative correction.

See: 31 N.J.R. 1204(a).

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (b), (i) and (j), substituted "licensed" for "certified"; in (i), deleted a comma following "architect"; and in (j), inserted a comma following "elements" and deleted a comma following "engineer".

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.

Amended by R.1991 d.550, effective November 4, 1991.

See: 23 N.J.R. 1516(a), 23 N.J.R. 3337(b).

In (a), added "certified landscape architect."

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a), deleted a comma following "improvements" and "planner" and substituted "licensed" for "certified".

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.

Amended by R.1991 d.550, effective November 4, 1991.

See: 23 N.J.R. 1516(a), 23 N.J.R. 3337(b).

In (b), added ", or certified landscape architects."

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (b), made a grammatical correction.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (b), deleted a comma following "planners" and substituted "licensed" for "certified".

SUBCHAPTER 8. SEALING AND TITLE BLOCK REQUIREMENTS FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL 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 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 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 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.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Amended by R.2002 d.322, effective October 7, 2002.

See: 33 N.J.R. 3241(a), 34 N.J.R. 1768(a), 34 N.J.R. 3532(c).

In (a), rewrote the second sentence.

Recodified from N.J.A.C. 13:40-1.1 and amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote (a) and (b)1; in (d), substituted "he or she" for "he/she" and updated N.J.A.C. cross-reference; former N.J.A.C. 13:40-8.1, Release of project records, recodified as N.J.A.C. 13:40-3.4.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a) and the introductory paragraph of (b), inserted "professional" preceding "land surveyor"; in (a), inserted a comma following the first occurrence of "seal" and following "Alternatives", and deleted a comma following the first occurrence of "Surveyor"; in the introductory paragraph of (b), substituted the second occurrence of "that" for "which"; and in (f), deleted "all" preceding "draft".

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.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Amended by R.2002 d.322, effective October 7, 2002.

See: 33 N.J.R. 3241(a), 34 N.J.R. 1768(a), 34 N.J.R. 3532(c).

In (a), substituted "and reports constituting the practice of the profession" for "which are prepared and sealed"; in (e), inserted "manually drafted or digital drawing, or from any" preceding "print".

Recodified from N.J.A.C. 13:40-1.2 by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

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 manually handwritten 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 as are 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.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Amended by R.2002 d.322, effective October 7, 2002.

See: 33 N.J.R. 3241(a), 34 N.J.R. 1768(a), 34 N.J.R. 3532(c).

In (a), inserted "manually" preceding "handwritten" in 5 and added 6. Recodified from N.J.A.C. 13:40-1.3 and amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote (a)2; in (a)3, substituted "license" for "certificate"; in (a)6, added "and N.J.A.C. 13:40-10.1."

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a)4 and (b), inserted "professional" preceding "land surveyor"; and in (b), inserted a comma following the first occurrence of "plan".

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.

Recodified from N.J.A.C. 13:40-1.4 by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

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.

Amended by R.1995 d.474, effective September 5, 1995.
See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).
Recodified from N.J.A.C. 13:40-1.5 by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Title block use for professional engineer and land surveyor work project". Inserted "professional" preceding "land" throughout.

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.

Recodified from N.J.A.C. 13:40-1.6 by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Inserted "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 Supervision of subordinates; maintaining records of adequate supervision; acts reflecting inadequate supervision**

(a) A licensee in responsible charge of an engineering or land surveying project shall render regular and effective supervision to those individuals performing services which directly and materially affect the quality and competence of engineering or 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 an engineering or land surveying project of which he 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 herein:

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.

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 authority 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.

New Rule, R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Former N.J.A.C. 13:40-10.1, Contract requirement, recodified as N.J.A.C. 13:40-10.3.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a)1, (a)2, (b)1ii, (c), (d) and (e), inserted "professional" preceding "land" throughout; in (b)1, inserted a comma following "Board"; and added (f).

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.

New Rule, R.2006 d.80, effective February 21, 2006.
 See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
 Amended by R.2011 d.212, effective August 15, 2011.
 See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).
 In (d), inserted "professional" preceding "land".

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.

Amended by R.1995 d.474, effective September 5, 1995.
 See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).
 Recodified from N.J.A.C. 13:40-10.1 and amended by R.2006 d.80, effective February 21, 2006.
 See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).
 Rewrote the section.

Amended by R.2011 d.212, effective August 15, 2011.
 See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a), substituted "that" for the first occurrence of "which", inserted "professional" preceding the first occurrence of "land" and "licensed professional" preceding the second occurrence of "land"; in (b) and (c), inserted "professional" preceding "land" throughout; and in (b), substituted "that" for "which".

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.

Repeal and New Rule, R.1998 d.566, effective December 7, 1998.

See: 29 N.J.R. 5051(b), 30 N.J.R. 4248(a).

Section was "License renewal".

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Inserted "professional" preceding "land".

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" means one hour of instruction.

Amended by R.1998 d.566, effective December 7, 1998.

See: 29 N.J.R. 5051(b), 30 N.J.R. 4248(a).

Added "Approved course or activity" and deleted "Core course/activity" and "Non-core course/activity".

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted definition "Continuing education unit" and rewrote definition "Professional development hour."

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Deleted definition "Professional development hour" and inserted definition "Continuing professional competency credit".

13:40-11.3 Credit-hour requirements

(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.

Amended by R.1998 d.566, effective December 7, 1998.
See: 29 N.J.R. 5051(b), 30 N.J.R. 4248(a).

Deleted former (b) and recodified former (c) as (b).

Amended by R.2002 d.322, effective October 7, 2002.

See: 33 N.J.R. 3241(a), 34 N.J.R. 1768(a), 34 N.J.R. 3532(c).

In (a), deleted “; except that for the period May 1, 1994 to April 30, 1996, PDHs may have been accumulated from January 1, 1993”; in (b), substituted “12” for “eight”.

Administrative correction.

See: 35 N.J.R. 1937(a).

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a), substituted “credits of continuing professional competency” for “professional development hours (PDHs)”; and in (b), substituted “credits of continuing professional competency” for “PDHs”.

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. One continuing professional competency credit for each semester hour credit awarded by the college;
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.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote (a)2.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In the introductory paragraph of (a), substituted "Continuing professional competency credits" for "Credit for PDHs"; in the introductory paragraph of (a)1, substituted a period for a semicolon at the end; in (a)1i, substituted "One continuing professional competency credit" for "Fifteen PDHs" and deleted "or" from the end; deleted (a)1ii; in (a)2, (a)4, (a)5i, (a)5ii, (a)6 and (a)7, substituted "continuing professional competency" for "PDH"; in (a)4, substituted "that" for "which"; in the introductory paragraph of (a)5, substituted "or" for "and"; and in (a)5iii and (a)7, substituted "continuing professional competency credits" for "PDHs".

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.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Reporting and documenting of PDHs". In the introductory paragraph of (a), inserted "professional" and a comma following "include" and "applicable", and substituted "continuing professional competency credits have" for "PDHs has"; in (a)2, substituted "Continuing professional competency credits" for "PDHs"; and in (b), substituted "continuing professional competency credit" for "PDH".

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.

Amended by R.2002 d.322, effective October 7, 2002.

See: 33 N.J.R. 3241(a), 34 N.J.R. 1768(a), 34 N.J.R. 3532(c).

In (b), substituted "shall" for "must" and inserted "90 days prior to renewal of licensure" following "writing".

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a), added ", extend or otherwise modify"; in (b), added ", extension or other modification"; and substituted "the request" for "requesting the waiver" and deleted "waiver" from the last sentence in (b).

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Waiver of continuing competency requirement". In (d), substituted "continuing professional competency credit" for "PDH".

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 continuing professional competency credits. If the total credits required to become current exceeds 30, then 30 shall be the maximum number required. However, an additional 24 continuing professional competency credits will still be required at the next biennial renewal.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Substituted "continuing professional competency credits" for "PDHs" twice.

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.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Substituted the third occurrence of "requirements" for "requirement" and "continuing professional competency credits" for "PDHs".

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.

Amended by R.1998 d.566, effective December 7, 1998.
See: 29 N.J.R. 5051(b), 30 N.J.R. 4248(a).

In (a), rewrote the introductory paragraph; and added (c).

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.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a)3, deleted "or CEU" and added "or contact hours"; in (a)7, added "who has successfully completed the program" and substituted "completion" for "attendance"; in (a)8, added "program" and "and completion"; added (a)10.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a)3, inserted a comma following "participants" and deleted one following "method", and substituted "continuing professional competency credit" for "PDH".

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.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a) and (b), inserted "professional" preceding "land".

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 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. 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.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote (c)1; in (c)2, deleted "annual"; removed comma in (d).

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 holding 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 professional land surveyor seeking to resume practice shall furnish proof of completion of a minimum of 24 continuing professional competency credits earned within two years prior to the application for the resumption of practice.

(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.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a)2, substituted "reactivation" for "reinstatement"; added (b).

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a), inserted "professional" preceding "land" throughout; in (a)3i, substituted "licensee" for "professional engineer" and inserted a comma following "way", and deleted a comma following "competency" and "health", and deleted "engineering" following the second occurrence of "practice"; and in (a)3ii, substituted "continuing professional competency credits" for "PDHs".

SUBCHAPTERS 13 THROUGH 14. (RESERVED)

SUBCHAPTER 15. HOME INSPECTION ADVISORY COMMITTEE

13:40-15.1 Purpose; scope; applicability

(a) The purpose of the rules in this subchapter is to implement P.L. 1997, c.323 (N.J.S.A. 45:8-61 et seq.), the Home Inspection Professional Licensing Act.

(b) This subchapter shall apply to all persons licensed as 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. 13:40-15.6.

(d) This subchapter shall not apply to:

1. Any person who is employed as a code enforcement official by the State or a political subdivision thereof when acting within the scope of that government employment;

2. Any person licensed by the State as an architect, professional engineer, electrical contractor or master plumber, who is acting within the scope of practice of his or her profession or occupation;

3. Any real estate broker, broker-salesperson, or salesperson who is licensed by the State when acting within the scope of his or her profession;

4. Any person regulated by the State as an insurance adjuster, who is acting within the scope of his or her profession;

5. Any State licensed real estate appraiser or certified general or residential real estate appraiser, who is acting within the scope of that profession;

6. Any person certified or registered as a pesticide applicator pursuant to N.J.A.C. 7:30-6 or 8, who is acting within the scope of the practice for which certification has been issued;

7. Any person performing home inspections in the presence of and under the direct supervision of a licensed home inspector for the purpose of meeting the training requirements of N.J.A.C. 13:40-15.6(a)4.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (b), deleted "or associate home inspectors"; in (c), deleted "After May 29, 2003."

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (c), deleted "15.5 or" preceding "15.6"; and rewrote (d)7.

13:40-15.2 Definitions

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

"Accessible" means available for visual inspection without requiring the moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

"Act" means the Home Inspection Professional Licensing Act, N.J.S.A. 45:8-61 et seq.

"Acting within the scope of practice of a profession or occupation" means performing those specific duties for which certification, registration or licensure by a board, committee, commission, or agency of the State or Federal government is necessary and has in fact been granted to an individual.

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

1. Tests performed by a home inspector which are not part of a home inspection but which, in the opinion of the 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 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 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 may inspect if experienced, educated, trained, certified, registered or licensed as set forth in N.J.A.C. 13:40-15.22; and

4. Engineering and architectural services which are necessitated as a result of a home inspection.

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

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

"Client" means any current or prospective homeowner who engages, or seeks to engage, the services of a home inspector for the purpose of obtaining an inspection of and written report regarding the condition of a residential building.

"Client's representative" means an attorney at law of the State of New Jersey who has been retained by the client and identified to the home inspector in writing. For the purposes of this subchapter, a real estate broker or agent is not the client's representative.

"Committee" means the Home Inspection Advisory Committee established pursuant to N.J.S.A. 45:8-63.

"Component" means a part which, together with other parts, make up a system.

"Continuing education unit" means an hour of an educational activity in which a minimum of 50 minutes of the hour comprises active instruction or learning.

"Decorative" means ornamental, and not required for the operation of the systems and components of a residential building.

"Describe" means to report in writing a system or component by its type or other observed significant characteristics to distinguish it from other systems or components.

"Direct supervision" means that a licensed home inspector is physically present at and monitors the entire home inspection and prepares and signs the home inspection report.

"Exterior surfaces" means exterior cladding or siding, flashing, trim, eaves, soffits and/or fascia.

"Functional drainage" means the drainage of a plumbing fixture sufficient to prevent fixture overflow during normal usage.

"Functional water flow" means the delivery of a quantity of water at flow and pressure sufficient to use a fixture for its intended purpose.

“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 which:

1. Discloses those systems and components which are designated for inspection pursuant to this subchapter and are present at the time of the inspection, as well as those which are present at the time of the home inspection but are not inspected and the reason(s) they are not inspected;
2. Describes systems and components as specified in this subchapter;
3. States what material defects are found in systems or components;
4. States the significance of findings; and
5. Provides recommendations regarding the need to repair, replace or monitor a system or component, or to obtain examination and analysis by a qualified professional, tradesman or service technician.

“Home inspection training report” means a written report prepared by a trainee pursuant to N.J.A.C. 13:40-15.6(b), which:

1. Discloses those systems and components which are designated for inspection pursuant to this subchapter and are present at the time of the inspection, as well as those which are present at the time of the home inspection but are not inspected and the reason(s) they are not inspected;
2. Describes systems and components as specified in the rules of this subchapter;
3. States what material defects are found in systems or components;
4. States the significance of findings; and
5. Provides recommendations as to the need to repair, replace or monitor a system or component, or to obtain examination and analysis by a qualified professional, tradesman or service technician.

“Home inspector” means any person licensed as a home inspector pursuant to N.J.S.A. 45:8-62 et seq. and this subchapter who practices as a home inspector and inspects the condition of a residential building on behalf of a client for which the client is charged a fee.

“Inspect” means to visually examine any readily accessible system or component of a building, including viewing the interior of readily openable access panels, and operating building systems using normal operating controls in accordance with this subchapter.

“Installed” means affixed apparatus or component of a system that is permanently integrated in a residential building.

“Licensee” means a home inspector licensed by the Committee and subject to this subchapter.

“Material defect” means a condition, or functional aspect, of a structural component or system that is readily ascertainable during a home inspection that substantially affects the value, habitability or safety of the dwelling, but does not include decorative, stylistic, cosmetic, or aesthetic aspects of the system, structure or component.

“Normal operating controls” means devices such as thermostats, switches or valves intended to be operated by the homeowner in the ordinary use of a system component or appliance.

“Other related residential housing component” means an attached or detached garage or carport unless that garage or carport contains a residence separate from the primary residential building.

“Person” means any natural person, limited or general partnership, association, corporation, or other legal entity, or any combination thereof.

“Readily openable access panel” means a panel provided for inspection and maintenance that is within normal reach, can be removed by one person, and is not sealed in place.

“Recreational facilities” means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment and associated accessories.

“Residential building” means a structure consisting of from one to four family dwelling units and their garages or carports, unless such garage or carport contains a separate dwelling unit but excluding the common elements and areas in multiple unit housing such as condominiums and cooperative housing; that has been occupied as such prior to the time when a home inspection is requested or contracted for in accordance with the Act and this subchapter, but does not include any such structure newly constructed and not previously occupied.

“Significance of findings” means an explanation of the reason the 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.

“Structural component” means an integral part of a residential building, including the masonry structure and foundation, that supports non-variable forces or weights, that is, dead loads, and variable forces or weights, that is, live loads.

“System” means a combination of interacting or interdependent components, assembled to carry out one or more functions.

“Trainee” means any person who performs a home inspection in the presence of and under the direct supervision of a licensed home inspector pursuant to the provisions of N.J.A.C. 13:40-15.6 and N.J.S.A. 45:8-68c(2).

“Unsafe” means a condition of a readily accessible, installed component or system caused by obsolescence, damage, deterioration, improper installation or inherent defects which presents a significant risk of injury or property damage under normal, day-to-day operation.

“Under-floor crawl space” means the area within the confines of the foundation and between the ground and the underside of the floor.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote definitions “Additional inspection services,” “Home inspection,” “Home inspection report,” “Licensee” and “Significance of findings”; and deleted definitions “Associate home inspector” and “Regular and effective, direct supervision.”

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In the introductory paragraph, inserted “words and”; substituted definition “Direct supervision” for definition “Direct, on-site supervision”; in definition “Home inspection training report”, substituted “15.6(b)” for “15.5(a)4”; and rewrote definition “Trainee”.

13:40-15.3 Office of the Committee

The office of the Committee shall be maintained with the Board at 124 Halsey Street, Newark, New Jersey. The mailing address of the Committee is PO Box 45043, Newark, New Jersey 07101.

13:40-15.4 (Reserved)

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote the section.

Repealed by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was “Requirements for initial licensure as home inspector (grandfathering)”.

13:40-15.5 (Reserved)

Repealed by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Section was “Requirements for licensure as associate home inspector”.

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 that 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 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 for which the client was charged a fee. The inspections shall be performed in the presence of and under the direct supervision of a New Jersey licensed home inspector who possesses a current and active license, has performed at least 500 home inspections and has at least three years of experience. The inspector must oversee and take full responsibility for the inspection and any report produced by monitoring the progress of the trainee and ensuring compliance with the home inspection training reports requirements;

5. Has submitted a list of the 250 inspections performed under (a)4 above, if an applicant is seeking licensure under that paragraph;

6. Shall secure and maintain an errors and omissions insurance policy in the minimum amount of \$500,000 per occurrence;

7. Has passed the Home Inspector Examination, administered by the Examination Board of Professional Home Inspectors (EBPHI); and

8. Pay an application fee as set forth in N.J.A.C. 13:40-15.23.

(b) The Committee shall randomly audit applications to verify that applicants for licensure as a home inspector under this section performed at least 250 home inspections as required by (a)4 above. Applicants that are audited shall submit copies of home inspection reports as requested by the Committee.

(c) Pursuant to N.J.S.A. 45:1-21 and N.J.A.C. 13:40-15.20, the Committee may deny, refuse to renew, temporarily suspend or revoke a license, or issue a civil penalty, upon proof that an applicant has obtained a license through fraud, deception or misrepresentation.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted former (a)3; added new (a)3; rewrote (a)4.

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In the introductory paragraph of (a), substituted "that" for "which"; rewrote (a)4; added new (a)5 and (a)7; recodified former (a)5 and (a)6 as (a)6 and (a)8; and in (a)6, deleted "and" from the end.

13:40-15.7 (Reserved)

Repealed by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Section was "Supervision of associate home inspectors".

13:40-15.8 Insurance requirement

(a) All licensed 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) Every proof of an errors and omissions policy required to be filed with the Committee shall provide that cancellation or nonrenewal of the policy shall not be effective unless and until the Committee has received at least 10 days written notice of intention to cancel or nonrenew.

(c) Both the 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.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a) and (c), deleted "associate home inspector."
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a), deleted "and" preceding "engaged".

13:40-15.9 Identification cards

(a) All licensed 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) Identification cards shall not be transferable. A duplicate identification card to replace one lost or destroyed may be issued upon notice to the Committee and payment of a fee as established by rule by the Division.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a), deleted "and associate home inspectors."

13:40-15.10 License renewal

(a) All licenses issued by the Committee shall be issued for a two year period. A licensee who seeks renewal of the license shall submit a license renewal application and the license renewal fee set forth in N.J.A.C. 13:40-15.23 to the Committee prior to the expiration of the license.

(b) Renewal applications shall provide the applicant with the option of either active or inactive status. A licensee

electing inactive status shall pay the inactive license fee as set forth in N.J.A.C. 13:40-15.23 and shall not engage in the practice of home inspection.

(c) If the licensee does not renew the license prior to its expiration date, the licensee may renew it within 30 days of its expiration by submitting a renewal application, a license renewal fee and a late fee, as set forth in N.J.A.C. 13:40-15.23.

(d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice.

13:40-15.11 Change of license status: inactive to active

(a) A licensee, upon application to the Committee, may change from inactive to active status upon payment of the renewal fee as set forth in N.J.A.C. 13:40-15.23 and submission of evidence of having completed the following:

1. Forty units of Committee-approved continuing education within the two year period preceding the application for reinstatement if the license has been inactive for a period of two years or less;

2. Sixty units of Committee-approved continuing education within the three-year period immediately preceding the application for reinstatement if the license has been inactive for a period of more than two and less than five years; or

3. Twenty units of Committee-approved continuing education per year to a maximum of 120 units of Committee-approved continuing education within the three-year period immediately preceding the application for reinstatement if the license has been inactive for a period of five or more years.

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (a)2, substituted "three-year" for "three year" and deleted "or the course of study as required by N.J.A.C. 13:40-15.5(a)3 within one year immediately preceding the application for reinstatement" preceding "if"; and rewrote (a)3.

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 and N.J.A.C. 13:40-15.6, 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 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 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 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 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 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. 13:40-15.14 in the two-year period immediately prior to application for reinstatement.

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

1. An individual whose license has been suspended for a period of two years or less shall complete 40 units of Committee-approved continuing education within the two year period preceding reinstatement;

2. An individual whose license has been suspended for a period of more than two and less than five years shall complete 60 units of Committee-approved continuing education within the three-year period immediately preceding reinstatement; or

3. An individual whose license has been suspended for a period of five or more years shall complete 20 units of Committee-approved continuing education per year to a maximum of 120 units of Committee-approved continuing education within the three-year period immediately preceding reinstatement and take and pass the Home Inspector Examination administered by the Examination Board of Professional Home Inspectors (EBPHI) prior to reinstatement.

(e) Prior to reinstatement, an applicant shall pay a reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:40-15.23.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In introductory paragraph (a), deleted reference to N.J.S.A. 45:8-69 and N.J.A.C. 13:40-15.5; deleted "or associate home inspector" throughout.

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (c), updated the N.J.A.C. reference and substituted "two-year" for "two year"; in (d)2, substituted "three-year" for "three year" and deleted

"or successfully complete the course of study as required by N.J.A.C. 13:40-15.5(a)3 within one year immediately preceding reinstatement" following "reinstatement"; and in (d)3, substituted "complete 20 units of Committee-approved continuing education per year to a maximum of 120 units of Committee-approved continuing education within the three-year period immediately preceding reinstatement and take" for "retake".

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

(a) A licensed 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) Service of an administrative complaint or other Committee-initiated action at a licensee's address which is on file with the Committee shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

(c) A license shall, within 30 days of receiving notice of disciplinary action taken against the licensee in any state, territory or jurisdiction, report to the Committee in writing of such notification and provide a copy of the notification and the underlying documentation of the disciplinary action.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (a), deleted "or licensed associate home inspector."

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) Continuing education unit requirements for biennial license renewal are as follows:

1. Each home inspector shall be required to complete during the preceding biennial period a minimum of 40 units of continuing education in courses and programs as provided in (c) and (d) below. Beginning with the 2011 biennial period, each home inspector shall complete a minimum of three units on report writing, three units on ethics and three units on the rules governing the practice of home inspection, as part of the required 40 units of continuing education.

2. Persons receiving initial licensure as home inspectors shall complete continuing education requirements prorated as follows:

i. Any person receiving initial licensure as a home inspector in the first year of a biennial registration period shall complete a minimum of 40 continuing education units before the end of that biennial registration period; and

ii. Any person receiving initial licensure as a home inspector in the second year of a biennial registration period shall complete a minimum of 20 continuing education units before the end of that biennial registration period.

3. A licensee who completes more than the minimum continuing education units, as set forth in (b)1 above, in any biennial registration period may carry over no more than 10 of the additional units into the succeeding biennial period, but only if the units were earned in the last six months of the preceding biennial period.

4. Any continuing education units completed by the licensee in compliance with an order or directive from the Committee as set forth in (h) below may not be used to satisfy the minimum continuing education requirements as set forth in this section.

5. A licensee on inactive status who seeks to reactivate his or her license shall submit to the Committee proof of successful completion of continuing education units as set forth in N.J.A.C. 13:40-15.10(a), (b) and (c) above, as applicable.

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

1. Successful completion of continuing education courses or programs approved by the Committee pursuant to (g) below. The Committee shall maintain a list of all approved programs, courses and lecturers at the Board office and shall furnish this information to licensees upon request;

2. Participation in instructional activities such as developing curriculum for a new program or course and/or teaching a new program or course, provided the program or course is directly related to the practice of home inspection in the State of New Jersey. "New" means that the licensee has never taught or developed curriculum for that course or program in any educational setting;

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 supervision of trainees during home inspections used for training purposes. To qualify for continuing education credit, a home inspection used for training pur-

poses shall require at least one hour to complete and shall not be attended by more than one trainee.

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

1. Attendance at continuing education programs approved by the Committee: one unit for each hour of attendance at an approved course. Credit shall not be granted for courses that are less than one instructional hour long. Completion of an entire course or segment of course instruction shall be required in order to receive any continuing education units;

2. Attendance at courses approved by the Committee: one unit for each hour of attendance at an approved course. Credit shall not be granted for courses that are less than one instructional hour long. Completion of an entire course or segment of course instruction is required in order to receive any continuing education units;

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 supervision of 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. Certificate of completion from sponsor—for attendance at courses or programs approved by the Committee;

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) All sponsors of continuing education courses or programs shall:

1. Obtain Committee approval prior to representing that any course, seminar, or program fulfills the requirements of this section;

2. Submit for evaluation by the Committee, the following for each course, seminar or program offered:

i. A detailed description of course content and estimated hours of instruction; and

ii. The curriculum vitae of each lecturer, including specific background which qualifies the individual as a lecturer of repute in the area of instruction;

3. Monitor the attendance at each approved course, seminar or program and furnish to each enrollee a verification of attendance, which shall include at least the following information:

i. The title, date and location of course, seminar or program offering;

ii. The name and license number of attendee;

iii. The number of hours attended; and

iv. The name and signature of officer or responsible party;

4. Solicit course, seminar or program evaluations from both the participants and the instructors; and

5. Submit a fee pursuant to N.J.A.C. 13:40-15.23 for each biennial period during which a course(s), seminar(s) or programs is offered.

(h) The Committee shall approve only such continuing education courses and programs as are available and advertised on a reasonable nondiscriminatory basis to all persons practicing home inspecting in the State and are directly related to the practice of home inspection in the State of New Jersey.

(i) The Committee may direct or order a licensee to complete continuing education units:

1. As part of a disciplinary or remedial measure; or

2. To correct a deficiency in the licensee's continuing education requirements.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Rewrote the section.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (b)1, inserted the last sentence; in (b)3, inserted a comma following the first occurrence of "units" and "above", and substituted "carry over" for "carryover" and "the" for "a" preceding "succeeding"; rewrote (e)5; and in (d)7, deleted ", on site" preceding and "associate home inspectors and/or" following "supervision of".

13:40-15.15 Pre-inspection agreements

(a) A 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. The price of the home inspection;

2. A description of the systems and components which will be inspected as part of the home inspection as required pursuant to N.J.A.C. 13:40-15.16;

3. A description of that which is not required as part of the home inspection pursuant to this subchapter;

4. The full name and address of the client;

5. The address of the home to be inspected;

6. The date and time of the home inspection;

7. A statement that 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. A description of any additional inspection service(s), as defined in N.J.A.C. 13:40-15.2, for which the client is charged an additional fee(s) which are not part of the home

inspection but may be performed pursuant to this subchapter.

(b) The pre-inspection agreement shall indicate whether any systems or components are excluded from the home inspection at the request of the client.

(c) The pre-inspection agreement shall indicate whether the home inspector will return at a later date to inspect any systems or components that are not inspected because of unforeseen circumstances or weather conditions 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) A pre-inspection agreement shall be retained for a period of five years following the completion of the pre-inspection agreement.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted "associate home inspector" throughout.
Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (c), substituted "that" for "which" and inserted "or weather condition".

13:40-15.16 Standards of practice

(a) All 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 to:

1. Enter any area or perform any procedure which is, in the opinion of the 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, likely damage the property or its systems or components;
3. Enter any area which does not have at least 24 inches of unobstructed vertical clearance and at least 30 inches of unobstructed horizontal clearance;
4. Identify concealed conditions and latent defects;
5. Determine life expectancy of any system or component;
6. Determine the cause of any condition or deficiency;
7. Determine future conditions that may occur including the failure of systems and components including consequential damage;

8. Determine the operating costs of systems or components;

9. Determine the suitability of the property for any specialized use;

10. Determine compliance with codes, regulations and/or ordinances;

11. Determine market value of the property or its marketability;

12. Determine advisability of purchase of the property;

13. Determine the presence of any potentially hazardous plants, animals or diseases or the presence of any suspected hazardous substances or adverse conditions such as mold, fungus, toxins, carcinogens, noise, and contaminants in soil, water, and air;

14. Determine the effectiveness of any system installed or method utilized to control or remove suspected hazardous substances;

15. Operate any system or component which is shut down or otherwise inoperable;

16. Operate any system or component which does not respond to normal operating controls;

17. Operate shut-off valves;

18. Determine whether water supply and waste disposal systems are public or private;

19. Insert any tool, probe or testing device inside electrical panels;

20. Dismantle any electrical device or control other than to remove the covers of main and sub panels;

21. Walk on unfloored sections of attics; and

22. Light pilot flames or ignite or extinguish fires.

(c) Home inspectors shall:

1. Inspect the following systems and components in residential buildings and other related residential housing components:

- i. Structural components as required by (e) below;
- ii. Exterior components as required by (f) below;
- iii. Roofing system components as required by (g) below;
- iv. Plumbing system components as required by (h) below;
- v. Electrical system components as required by (i) below;
- vi. Heating system components as required by (j) below;

vii. Cooling system components as required by (k) below;

viii. Interior components as required by (l) below;

ix. Insulation components and ventilation system as required by (m) below; and

x. Fireplaces and solid fuel burning appliances as required by (n) below;

2. Prepare a home inspection report which shall:

i. Disclose those systems and components as set forth in (c)1 above which were present at the time of inspection;

ii. Disclose systems and components as set forth in (c)1 above which were present at the time of the home inspection but were not inspected, and the reason(s) they were not inspected;

iii. Describe the systems and components specified in these standards of practice;

iv. State material defects found in systems or components;

v. State the significance of findings where any material defects in the systems and components of (c)1 above were found; and

vi. Provide recommendations where material defects were found to repair, replace or monitor a system or component or to obtain examination and analysis by a qualified professional, tradesman, or service technician without determining the methods, materials or cost of corrections; and

3. Retain copies of all home inspection reports prepared pursuant to (c)2 above, for a period of five years upon completion of the report;

(d) Subsection (c) above is not intended to limit 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 from inspecting such system or component;

2. Contracting with the client to provide, for an additional fee additional inspection services provided the 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. Excluding systems and components from the inspection if requested in writing by the client.

(e) When conducting the inspection of the structural components, the home inspector shall:

1. Inspect:

i. Foundation;

ii. Floors;

iii. Walls;

iv. Ceilings; and

v. Roof;

2. Describe:

i. Foundation construction type and material;

ii. Floor construction type and material;

iii. Wall construction type and material;

iv. Ceiling construction type and material; and

v. Roof construction type and material;

3. Probe structural components where deterioration is suspected unless such probing would damage any finished surface; and

4. Describe in the home inspection report the methods used to inspect under-floor crawl spaces and attics.

(f) When conducting the inspection of the exterior components, a home inspector shall:

1. Inspect:

i. Exterior surfaces, excluding shutters, and screening, awnings, and other similar seasonal accessories;

ii. Exterior doors excluding storm doors or safety glazing;

iii. Windows excluding storm windows and safety glazing;

iv. Attached or adjacent decks, balconies, stoops, steps, porches, and their railings;

v. Vegetation, grading, drainage, and retaining walls with respect to their immediate detrimental effect on the condition of the residential building, excluding fences, geological and/or soil conditions, sea walls, break-walls, bulkheads and docks, or erosion control and earth stabilization;

vi. Attached or adjacent walkways, patios, and driveways; and

vii. Garage doors including automatic door openers and entrapment protection mechanisms, excluding remote control devices; and

2. Describe exterior wall surface type and material.

(g) When inspecting the roof of a residential building, the home inspector shall:

1. Inspect:
 - i. Roofing surface, excluding antennae and other installed accessories such as solar heating systems, lightning arresters, and satellite dishes;
 - ii. Roof drainage systems;
 - iii. Flashing;
 - iv. Skylights; and
 - v. Exterior of chimneys;
2. Describe:
 - i. Roof surface;
 - ii. Roof drainage systems;
 - iii. Flashing;
 - iv. Skylights; and
 - v. Chimneys;
3. Employ reasonable, practicable and safe methods to inspect the roof such as:
 - i. Walking on the roof;
 - ii. Observation from a ladder at roof level; or
 - iii. Visual examination with binoculars from ground level; and
4. Describe the methods used to inspect the roof.

(h) When inspecting the plumbing system, a home inspector shall:

1. Inspect:
 - i. Interior water supply and distribution systems including functional water flow and functional drainage, excluding wells, well pumps, well water sampling or water storage related equipment, determination of water supply quantity or quality and water conditioning systems and lawn irrigation systems;
 - ii. All interior fixtures and faucets, excluding shut off valves, wells, well pumps, well water sampling and water storage related equipment;
 - iii. Drain, waste and vent systems;
 - iv. Domestic water heating systems, without operating safety valves or automatic safety controls, and excluding solar water heating systems;
 - v. Combustion vent systems excluding interiors of flues and chimneys;
 - vi. Fuel distribution systems; and

vii. Drainage sumps, sump pumps and related piping; and

2. Describe:

- i. Predominant interior water supply and distribution piping materials;
- ii. Predominant drain, waste and vent piping materials; and
- iii. Water heating equipment including energy sources.

(i) When inspecting the electrical system, a home inspector shall:

1. Inspect:

- i. Service entrance system;
- ii. Main disconnects, main panel and sub panels, including interior components of main panel and sub panels;
- iii. Service grounding;
- iv. Wiring, without measuring amperage, voltage or impedance, excluding any wiring not a part of the primary electrical power distribution system, such as central vacuum systems, remote control devices, telephone or cable system wiring, intercom systems, security systems and low voltage wiring systems;
- v. Over-current protection devices and the compatibility of their ampacity with that of the connected wiring;
- vi. At least one of each interior installed lighting fixture, switch, and receptacle per room and at least one exterior installed lighting fixture, switch, and receptacle per side of house; and
- vii. Ground fault circuit interrupters; and

2. Describe:

- i. Amperage and voltage rating of the service;
- ii. Location of main disconnect, main panels, and sub-panels;
- iii. Type of over-current protection devices;
- iv. Predominant type of wiring;
- v. Presence of knob and tube branch circuit wiring; and
- vi. Presence of solid conductor aluminum branch circuit wiring.

(j) When inspecting the heating system, a home inspector shall:

1. Inspect:

i. Installed heating equipment and energy sources, without determining heat supply adequacy or distribution balance, and without operating automatic safety controls or operating heat pumps when weather conditions or other circumstances may cause damage to the pumps, and excluding humidifiers, electronic air filters and solar heating systems;

ii. Combustion vent systems and chimneys, excluding interiors of flues or chimneys;

iii. Fuel storage tanks, excluding propane and underground storage tanks; and

iv. Visible and accessible portions of the heat exchanger; and

2. Describe:

i. Heating equipment and distribution type; and

ii. Energy sources.

(k) When inspecting the cooling system, a home inspector shall:

1. Inspect:

i. Central cooling system, excluding electronic air filters and excluding determination of cooling supply adequacy or distribution balance and without operating central cooling equipment when weather conditions or other circumstances may cause damage to the cooling equipment;

ii. Permanently installed hard-wired, through-wall individual cooling systems; and

iii. Energy sources; and

2. Describe:

i. Cooling equipment and distribution type; and

ii. Energy sources.

(l) When inspecting the interior of a residential building, a home inspector shall:

1. Inspect:

i. Walls, ceilings, and floors excluding paint, wallpaper and other finish treatments, carpeting and other non-permanent floor coverings;

ii. Steps, stairways, and railings;

iii. Installed kitchen wall cabinets to determine if secure;

iv. At least one interior passage door and operate one window per room excluding window treatments; and

v. Household appliances limited to:

(1) The kitchen range and oven to determine operation of burners or heating elements excluding

microwave ovens and the operation of self-cleaning cycles and appliance timers and thermostats;

(2) Dishwasher to determine water supply and drainage; and

(3) Garbage disposer.

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

1. Inspect:

i. Insulation in unfinished spaces without disturbing insulation;

ii. Ventilation of attics and crawlspaces; and

iii. Mechanical ventilation systems; and

2. Describe:

i. Insulation in unfinished spaces adjacent to heated areas; and

ii. Evidence of inadequate attic and crawlspace ventilation.

(n) When inspecting fireplaces and solid fuel burning appliances, a home inspector shall:

1. Inspect:

i. Fireplaces and solid fuel burning appliances, without testing draft characteristics, excluding fire screens and doors, seals and gaskets, automatic fuel feed devices, mantles and non-structural fireplace surrounds, combustion make-up air devices, or gravity fed and fan assisted heat distribution systems; and

ii. Chimneys and combustion vents excluding interiors of flues and chimneys; and

2. Describe:

i. Type of fireplaces and/or solid fuel burning appliances;

ii. Energy source; and

iii. Visible evidence of improper draft characteristics.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted "associate home inspector" throughout.

Amended by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (j)iv, deleted "removing the flame roll-out shield if applicable" following "exchanger"; and in (n)2iii, inserted "improper".

13:40-15.17 Mandatory tools and equipment

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

1. A ladder, minimum 11 feet in length;
2. A flashlight, or another equivalent light source, with a minimum 15,000 candlepower illumination;
3. A flame inspection mirror;
4. An electrical outlet tester with Ground Fault Circuit Interrupter (GFCI) test ability;
5. Tools necessary to remove common fasteners on covers or panels which are required to be removed pursuant to this subchapter.
6. A measuring tape;
7. A probe;
8. Thermometers for testing air conditioning;
9. Binoculars with a magnification between 8X42 and 10X50;
10. A moisture meter;
11. Combustible gas leak detection equipment; and
12. A voltage detector.

(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 may utilize any other tools or equipment which in the licensee's professional judgment believes is necessary to adequately perform a home inspection.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted "associate home inspector" throughout.

13:40-15.18 Advertising; identification of licensee

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

"Advertisement" or "advertising" means an attempt, either directly or indirectly, by publication, dissemination, solicitation, endorsement or circulation in print or electronic media to induce a person to enter into an agreement to accept home inspection services.

"Electronic media" includes, but is not limited to, radio, television, telephone, facsimile machine, computer, and the Internet.

"Print media" means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, fliers or other publications, the content of which is disseminated by means of the printed word.

(b) All radio and television advertising by a home inspector shall include the name and license number of the home inspector.

(c) All advertising by a home inspector, other than the advertising referred to in (b) above, shall include:

1. The name of the home inspector;
2. The words "Home Inspector License Number" or "Home Inspector Lic. #," followed by the license number of the home inspector, which may be either the entire "GI" number (for example, 24GI000xxx00 or 24GI00XXXX00) or "GI" followed by the licensee's three- or four-digit license number (for example, GIxxx or GIxxxx); and
3. The business address of the home inspector, including the street name and number. Post office box numbers shall not be used as a form of business address.

(d) All advertising records shall be retained for a period of one year from the date of the advertisement.

(e) A home inspector whose name, business address, or license number appears or is mentioned in any advertisement shall be presumed to have caused, permitted or approved the advertising and shall be personally responsible for its content.

(f) All commercial vehicles used by a home inspector shall be marked on both sides with the following information:

1. The name of the home inspector in lettering at least one inch in height;
2. The words "Home Inspector License Number" or "Home Inspector Lic. #," followed by the license number of the home inspector, which may be either the entire "GI" number (for example, 24GI000xxx00 or 24GI00XXXX00) or "GI" followed by the licensee's three- or four-digit license number (for example, GIxxx or GIxxxx) in lettering at least one inch in height; and
3. The name of the owner or the lessee of the vehicle and the municipality from which the licensee practices or where the licensee has a principal office in lettering at least three inches in height.

i. Where available space for lettering is limited, either by design of the vehicle or by the presence of other legally specified identification markings, making strict compliance with (f)3 above impractical, the size of the lettering shall be as close to three inches high as is possible within the limited space, provided the information required is clearly visible and readily identifiable.

(g) All business correspondence and stationery, such as letterhead, business cards, pre-inspection agreements and home inspection reports, of a home inspector shall display:

1. The name of the home inspector;
2. The words "Home Inspector License Number" or "Home Inspector Lic. #," followed by the license number of the home inspector, which may be either the entire "GI" number (for example, 24GI000xxx00 or 24GI00XXXX00)

or "GI" followed by the licensee's three- or four-digit license number (for example, GIxxx or GIxxxx); and

3. The business address of the home inspector, including the street name and number, of the home inspector. Post office box numbers shall not be used as a form of business address.

Amended by R.2006 d.80, effective February 21, 2006.
See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted "associate home inspector" throughout.

Amended by R.2011 d.212, effective August 15, 2011.
See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

In (c)2 and (f)2 and (g)2, inserted "which may be either the entire 'GI' number (for example, 24GI000xxx00 or 24GI00XXXX00) or 'GI' followed by the licensee's three- or four-digit license number (for example, GIxxx or GIxxxx)"; in (d), substituted "one year" for "five years"; deleted former (g); recodified former (h) as (g); in the introductory paragraph of (g), deleted a comma following "agreements"; and in (g)2, inserted "which may be either the entire 'GI' number (for example, 24GI000xxx00 or 24GI00XXXX00) or 'GI' followed by the licensee's three- or four-digit license number (for example, GIxxx or GIxxxx)".

13:40-15.19 Prohibited practices

(a) It is a prohibited practice for a home inspector to do any of the following:

1. Perform or offer to perform, for an additional fee, any repairs to a structure on which the licensee or the licensee's company, has prepared a home inspection report;
2. Inspect for a fee any property in which the licensee, or the licensee's company, has any financial interest or any interest in the transfer of the property;
3. Offer or deliver any compensation, inducement, or reward to the owner of the inspected property, the broker, the agent or the client's representative, for the referral of any business to the licensee or the licensee's company;
4. Offer or deliver any compensation, inducement, or reward to the client, the broker, the agent or the client's representative or homeowner, on behalf of a person or business entity;
5. Accept an engagement to perform an inspection or prepare a home inspection report in which the employment itself or the fee payable for the inspection is contingent upon the conclusions of the report, preestablished findings, or the close of title;
6. Provide a copy of the home inspection report or disclose any information concerning the results of the inspection without the written approval of the client or the client's representative except when the home inspector discovers a health or safety condition that would not be readily detectable by the occupant or homeowner and which poses an imminent risk of injury;
7. Accept compensation, financial or otherwise, from more than one interested party for the same home inspection;

8. Accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible;

9. Accept commissions from any other trade or profession for information concerning the condition of the property which is the subject of the home inspection;

10. Fail to promptly disclose to the client information about any business interest of the licensee which may affect the client in connection with the home inspection;

11. Allow an interest the licensee may have in any business to affect the quality of a home inspection;

12. Use a home inspection as a means to obtain work in another field which is not an additional inspection service as defined by N.J.A.C. 13:40-15.2;

13. Engage in the use of advertising which contains any statement, claim or format which is false, fraudulent, misleading or deceptive;

14. Engage in advertising which promotes a professional service which is beyond the licensee's ability or authority to perform;

15. Perform or represent that a licensee can perform a professional service which is beyond the licensee's ability or authority to perform;

16. Perform, or offer to perform engineering or architectural services unless appropriately qualified pursuant to N.J.S.A. 45:3-1 et seq., N.J.S.A. 45:8-27 et seq., and other applicable laws and rules;

17. Fail to inspect the systems and components required by the standards of practice as set forth in N.J.A.C. 13:40-15.16 without the written consent of the client;

18. Employ any person as a home inspector who is not licensed as a home inspector;

19. Practice as a home inspector without a license, with a suspended license or during inactive status;

20. Perform any act or omission involving dishonesty, fraud, or misrepresentation with the intent to benefit a licensee or other person or with the intent to substantially injure another person;

21. Perform any act or omission involving dishonesty, fraud, or misrepresentation in the performance of a home inspection or preparation of a home inspection report;

22. Pay a finder's fee or referral fee to any person in connection with a home inspection; or

23. Fail or refuse, without good cause, to exercise diligence in preparing a home inspection report, delivering a report to the client, or responding to an inquiry from the client.

(b) Engaging in any of the prohibited practices delineated in (a) above shall be considered professional or occupational

misconduct within the meaning of N.J.S.A. 45:1-21(e) and may subject the licensee to the disciplinary provisions of N.J.A.C. 13:40-15.20.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted "associate home inspector" throughout; deleted former (a)19; recodified (a)20-24 as (a)19-23.

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

(a) The Committee may, pursuant to N.J.S.A. 45:1-21 and this subchapter, deny, refuse to renew, or temporarily suspend or revoke a license, or issue a civil penalty, upon proof that an applicant or licensee:

1. Has obtained a license or license renewal through fraud, deception, or misrepresentation;
2. Has engaged in dishonesty, fraud, deception, misrepresentation, false promise, or false pretense;
3. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
4. Has engaged in repeated acts of negligence, malpractice or incompetence;
5. Has engaged in professional or occupational misconduct as outlined in N.J.A.C. 13:40-15.18 and 15.19;
6. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the home inspection Committee. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
7. Has had the authority to engage in home inspections revoked or suspended by any other state, agency or authority for reasons consistent with this section;
8. Has violated or failed to comply with the provisions of any law or regulation administered by the Committee;
9. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
10. Has failed to report any violations of the Act and this subchapter by other licensees to the Committee;
11. Is incapable, for medical or other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
12. Has violated any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of the law as

set forth in this section, or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

13. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days; or

14. Advertised fraudulently in any manner.

(b) In addition to the actions listed in (a) above, the Committee may impose additional or alternative penalties pursuant to N.J.S.A. 45:1-22 and 25 for violations of any provision of this subchapter.

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

(d) The denial, refusal to renew, or temporary suspension or revocation of a license, and/or the issuance of a civil penalty under this section, may be ordered by a decision of a majority of the Committee after an opportunity to be heard.

(e) The licensee may apply to the Committee for reinstatement of a revoked license after the revocation has been in effect for at least one year. The reinstatement shall be granted upon an affirmative vote by a majority of the Committee.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In (c), deleted "associate home inspector."

13:40-15.21 Requirements for licensure as a 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, provided that:

1. The education, training, and examination requirements in such other jurisdiction are substantially equivalent to those required by the Committee at the time of application;
2. The prior State licenses relied upon must be current, active, and in good standing; and
3. The person secures and maintains an errors and omissions insurance policy, in the minimum amount of \$500,000 per occurrence.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted "or associate home inspector" from section heading; in introductory paragraph (a), deleted "or associate home inspector" which ever applies to the applicant's experience at the time of application."

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

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

1. Wells, well pumps, well water sampling or water storage related equipment: experience, education, training;
2. Private waste disposal systems including on-site individual waste disposal systems septic systems and/or cess-pools: license from Board of Professional Engineers or registered as an environmental health specialist;
3. Installed or free-standing warning devices including, carbon monoxide detectors, flue gas and other spillage detectors: experience, education, training;
4. Fire alarm systems, smoke detection systems, burglar alarm and security equipment: license from the Fire Alarm, Burglar Alarm and Locksmith Committee;
5. Presence of rodents, pests and/or insects of any kind: experience, education, training;
6. Presence of asbestos: license from Environmental Protection Agency;
7. Presence of lead paint: license from the Department of Health and Senior Services;
8. Presence of radon: license from the Department of Environmental Protection;
9. Presence of hazardous waste: experience, education, training; or
10. Inspections requiring specialized training or certification by a board, committee, commission or other agency of the State.

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

In introductory paragraph (a), deleted "or licensed associate home inspector."

13:40-15.23 Fee schedule

(a) The Committee shall charge the following fees:

1. Application fee:
 - i. Home inspector \$125.00
2. Initial license fee:
 - i. Home inspector 500.00
 - ii. Issued during the second year of a biennial renewal period..... 250.00
3. Renewal license fee
 - i. Home inspector 500.00
 - ii. Inactive status..... (to be established by rule by the Director)
4. Late renewal fee 50.00
5. Reinstatement fee 125.00
6. Duplicate certificate fee..... 20.00
7. Duplicate placard fee..... 20.00
8. Duplicate identification card fee..... 20.00
9. Continuing education program sponsor review fee..... 100.00

Amended by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Deleted all fees pertaining to Associate home inspector; recodified former (a)3iii as (a)3ii.

Amended by R.2008 d.91, effective April 7, 2008.

See: 39 N.J.R. 5053(a), 40 N.J.R. 1894(a).

Inserted new (a)6 through (a)8; and recodified former (a)6 as (a)9.

13:40-15.24 (Reserved)

New Rule, by R.2006 d.80, effective February 21, 2006.

See: 37 N.J.R. 3253(a), 38 N.J.R. 1202(a).

Repealed by R.2011 d.212, effective August 15, 2011.

See: 43 N.J.R. 590(a), 43 N.J.R. 2181(a).

Section was "Issuance of home inspector license based on associate home inspector license or experience".