

Filed: July 20, 2011 as R.2011 d.221, **without change**.
 Authority: N.J.S.A. 34:11-56.48 et seq., specifically 34:11-56.57.
 Effective Date: July 20, 2011.
 Expiration Date: July 20, 2018.

Summary of Hearing Officer's Recommendations and Agency's Response:

A public hearing regarding the proposed readoption was held on May 23, 2011 at the Department of Labor and Workforce Development. David Fish, Regulatory Officer, was available to preside at the public hearing and to receive testimony regarding the proposed readoption. There were no attendees at the public hearing and no written comments were submitted directly to the Office of Legal and Regulatory Services. Therefore, the hearing officer recommended that the Department proceed with the readoption without change.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

The readopted rules do not exceed standards or requirements imposed by Federal law as there are currently no Federal standards or requirements applicable to the subject matter of this rulemaking. As a result, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 12:62.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

State Board of Professional Engineers and Land Surveyors Rules

Readoption with Amendments: N.J.A.C. 13:40 Adopted Repeals: N.J.A.C. 13:40-15.4 and 15.24

Proposed: March 7, 2011 at 43 N.J.R. 590(a).
 Adopted: June 16, 2011 by the New Jersey State Board of Professional Engineers and Land Surveyors, James K. Valenti, P.E., President.

Filed: July 12, 2011 as R.2011 d.212, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:8-27 et seq.
 Effective Dates: July 12, 2011, Readoption;
 August 15, 2011, Amendments and Repeals.
 Expiration Date: July 12, 2018.

Summary of Public Comment and Agency Response:

The official comment period ended May 6, 2011. **The Board received no comments.** However, the Board received a letter dated April 29, 2011 from the Garden State Land Surveyors Alliance requesting an extension of the comment period, which the Board declined to grant.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments and repeals are subject to State statutory requirements and are not subject to any Federal requirements or standards.

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

Full text of the adopted amendments follows (deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:40-1.1 Purpose

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

13:40-1.2 Scope

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

13:40-1.3 Definitions

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

...
 "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.

...
 "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.

...
 "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.

...
 "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.

SUBCHAPTER 2. APPLICATION REQUIREMENTS; LICENSING;
BIENNIAL RENEWAL; INACTIVE STATUS

- 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.-3. (No change.)
 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.-6. (No change.)
- (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.-3. (No change.)
 4. The applicant submits a minimum of three references that comply with N.J.A.C. 13:40-2.13 from persons who have personal knowledge of the applicant's engineering education, experience or training, one of whom shall be a licensed professional engineer in the United States;
 - 5.-6. (No change.)
- (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.
- 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.-3. (No change.)
 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. (No change.)
- (b) (No change.)
- (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.
- 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.-3. (No change.)
 4. A minimum of five references that comply with N.J.A.C. 13:40-2.13 from persons who have personal knowledge of the applicant's experience or training, three of whom shall be licensed professional land surveyors in the United States. The professional references for that portion of the applicant's experience constituting the minimum experience required for licensure shall be licensed 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. (No change.)
- (b)-(c) (No change.)
- 13:40-2.8 Education requirements; engineer-in-training and professional engineer
- (a) (No change.)
- (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)-(f) (No change.)

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

(a) (No change.)

(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)-(e) (No change.)

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. (No change.)

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)-(f) (No change.)

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

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) (No change.)

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

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

(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.-2. (No change.)

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) (No change.)

(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.-2. (No change.)

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) (No change.)

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

13:40-3.1 Licensure requirement; issuance and display of certificate; advertising

(a) (No change.)

(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)-(h) (No change.)

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. (No change.)

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.-7. (No change.)

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)-(c) (No change.)

13:40-3.3 Advertising

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

1. An advertisement shall include a term which is descriptive of the professional services to be rendered, such as "professional engineer," "professional land surveyor," "professional engineering," "engineering," "professional land surveying," "surveying," "professional engineer on staff," "professional land surveyor on staff," "professional engineering services," "professional land surveying services" or the substantial equivalent thereof and may be made only by a professional business entity.

2. An advertisement shall include the name and license number of a professional engineer or professional land surveyor, as appropriate, and, if applicable, the name of the professional business entity and its certificate of authorization number.

3. Each professional engineer and professional land surveyor, who is a principal, partner or officer of a professional business entity, shall be responsible for the form and content of any advertisement, which offers to provide professional engineering and/or professional land surveying services.

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

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

13:40-3.4 Release of project records

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

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

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

1. (No change.)

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

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

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

13:40-3.5 Enumeration of prohibited acts

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

1.-6. (No change.)

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

8.-11. (No change.)

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.-14. (No change.)

SUBCHAPTER 5. PROFESSIONAL LAND SURVEYORS; PREPARATION OF LAND SURVEYS

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

(a) (No change.)

(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.-10. (No change.)

(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.-2. (No change.)

3. North arrow, identifying the horizontal datum of the survey (for example, NAD27, NAD83, magnetic, deed book and page, etc.) and scale;

4.-10. (No change.)

(g)-(h) (No change.)

(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 reproduced on the survey plat itself or may be by separate document. If the deed description is provided on the survey plat, it must be titled "Deed Description." If a separate document is provided, the description shall be signed and sealed by the licensed professional land surveyor responsible for its preparation.

2. (No change.)

(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.-3. (No change.)

(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.

13:40-5.2 Waiver of corner marker

(a) (No change.)

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

1. (No change.)

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. (No change.)

(c)-(h) (No change.)

SUBCHAPTER 7. PERMISSIBLE DIVISION OF RESPONSIBILITY IN SUBMISSION OF SITE PLANS AND MAJOR SUBDIVISION PLATS

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

(a) (No change.)

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

13:40-7.3 Preparation of site plan

(a) (No change.)

(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)-(h) (No change.)

(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.

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)-(c) (No change.)

13:40-7.5 Effect of local ordinances

(a) (No change.)

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

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

13:40-8.1 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. (No change.)

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

(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.

13:40-8.3 Title block contents

(a) The title block shall contain:

1.-3. (No change.)

4. The title "professional engineer" and/or "professional land surveyor" spelled out;

5.-6. (No change.)

(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) (No change.)

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

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

13:40-8.6 Subtitle block of independent professional

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

SUBCHAPTER 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.-v. (No change.)

2.-5. (No change.)

(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.

13:40-10.2 Biennial renewal of certificates of authorization

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

(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) (No change.)

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) (No change.)

SUBCHAPTER 11. LAND SURVEYORS; CONTINUING COMPETENCY

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

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

13:40-11.2 Definitions

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

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

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.

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. (No change.)

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

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

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

ii. The instructor or workshop leader will be given no credit for subsequent sessions in the same year involving substantially identical subject matter, except that after one year has elapsed the Board may give

one additional continuing professional competency credit for each instructional hour of service as an instructor or workshop leader for the initial presentation, provided the original material has been updated; and

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

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

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

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

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

1. (No change.)

2. Continuing professional competency credits claimed;

3.-6. (No change.)

(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)-(e) (No change.)

13:40-11.8 Waiver of continuing professional competency requirement

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

(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) (No change.)

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.

13:40-11.10 Out-of-jurisdiction resident

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

13:40-11.12 Responsibilities of program providers

(a) Program providers shall:

1.-2. (No change.)

3. Disclose in advance to prospective participants, the course objectives, prerequisites, experience level, content, required advanced

preparation, teaching method and number of continuing professional competency credits or contact hours involved in the program;

4.-10. (No change.)

SUBCHAPTER 12. RETIRED LICENSE AND NO-FEE RETIRED LICENSE STATUS

13:40-12.1 Eligibility requirements

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

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

13:40-12.4 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.-2. (No change.)

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) (No change.)

SUBCHAPTER 15. HOME INSPECTION ADVISORY COMMITTEE

13:40-15.1 Purpose; scope; applicability

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

(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.-6. (No change.)

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.

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.

 "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.

 "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.-5. (No change.)

 "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).

13:40-15.4 (Reserved)

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.-3. (No change.)

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. (No change in text.)

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

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)-(c) (No change.)

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. (No change.)

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.

13:40-15.12 Reinstatement of suspended license

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

(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. (No change.)

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) (No change.)

13:40-15.14 Continuing education requirements

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

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.-5. (No change.)

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

1.-4. (No change.)

5. Direct*[,] supervision of trainees during home inspections used for training purposes. To qualify for continuing education credit, a home inspection used for training purposes shall require at least one hour to complete and shall not be attended by more than one trainee.

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

1.-6. (No change.)

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)-(i) (No change.)

13:40-15.15 Pre-inspection agreements

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

(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) (No change.)

13:40-15.16 Standards of practice

(a)-(i) (No change.)

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

1. Inspect:

i.-iii. (No change.)

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

2. (No change.)

(k)-(m) (No change.)

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

1. (No change.)

2. Describe:

i.-ii. (No change.)

iii. Visible evidence of improper draft characteristics.

13:40-15.18 Advertising; identification of licensee

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

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

1. (No change.)

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. (No change.)

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

(e) (No change.)

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

1. (No change.)

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. (No change.)

(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. (No change.)

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. (No change.)

13:40-15.24 (Reserved)

(a)

**DIVISION OF CONSUMER AFFAIRS
 STATE BOARD OF RESPIRATORY CARE**

Delegation by a Respiratory Care Practitioner to Unlicensed Persons; Approval of Continuing Education Programs, Courses, Seminars and Articles; Determination of Credits; Performance-Based Competency Assessment; Approval; Determination of Credits; Licensee Certification of Compliance; Recordkeeping; Audit

Adopted Amendments: N.J.A.C. 13:44F-10.2 and 10.3

Adopted New Rule: N.J.A.C. 13:44F-10.2A

Proposed: July 6, 2010 at 42 N.J.R. 1331(a).

Adopted: February 10, 2011 by the State Board of Respiratory Care, Kenneth Capek, Chairman.

Filed: July 6, 2011 as R.2011 d.211, with a substantive change not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3), with amendments to N.J.A.C. 13:44F-3.3 not adopted.

Authority: N.J.S.A. 45:1-15.1 and 45:14E-7.

Effective Date: August 15, 2011.

Expiration Date: April 4, 2015.

Summary of Public Comments and Agency Responses:

The Board received comments on the notice of proposal from the following:

1. Wendy Russalesi, Executive Director, Jersey Association of Medical Equipment Services;
2. Jeffrey Reses;
3. Daryl Rogers;
4. Ronald Manno, President, Core Care Technologies, Inc.;
5. Robert Miller;
6. Michael Eddy, RRT;
7. Vikram Patel;
8. Erick Cooper, RRT, President, New Jersey Society for Respiratory Care;
9. Joseph Goss, RRT; and
10. John W. Indyk, Director of Governmental Affairs, Health Care Association of New Jersey.