

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Subchapter 1, Title Blocks for Professional Engineers, was repealed and Subchapter 1, Title Blocks and Seals for Professional Engineers and Land Surveyors, was adopted as new rules, and Subchapter 2, Title Blocks for Land Surveyors, was repealed by R.1985 d.694, effective January 21, 1986.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.

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 "licensee".

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)1 or 2 above, provided that this practice does not include responsible charge of design or supervision;

4. An officer or employee of the Government of the United States while engaged within this State in the practice of professional engineering or professional land surveying for the government;

5. An officer or employee of a corporation engaged in interstate commerce as defined in an act of Congress entitled "Act to regulate commerce," approved February 4, 1887, 24 Stat. 379, and as amended, when practicing professional engineering or professional land surveying solely for that corporation unless such practice affects public safety or health;

6. An employee of a corporation or any of its affiliated companies, any of which are in the field of telecommunications and subject to the jurisdiction of the State Board of Public Utilities or the Federal Communications Commission, when acting on behalf of that corporation or any of its affiliated companies;

7. An employee of a corporation or any of its affiliated companies, any of which are in the field of telecommunications and in which the primary business is research and technical development manufacturing or product design, when acting on behalf of that corporation or any of its affiliated companies; and

8. A person when exclusively practicing professional engineering or professional land surveying on property owned or leased by the person unless such practice involves the safety, health or welfare of the public.

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

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

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).

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;