

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.1990 d.434, effective August 3, 1990.
See: 22 N.J.R. 1867(a), 22 N.J.R. 2747(b).

Executive Order No. 66(1978) Expiration Date

Chapter 40, State Board of Professional Engineers and Land Surveyors, expires on August 3, 1995.

Chapter Historical Note

All provisions of this chapter were adopted by the State Board of Professional Engineers and Land Surveyors, Division of Professional Boards, Department of Law and Public Safety, pursuant to authority delegated at N.J.S.A. 45:8-27 et seq. and became effective prior to September 1, 1969.

Subchapter 7 became effective September 10, 1981 as R.1981 d.320. See: 13 N.J.R. 231(a), 13 N.J.R. 607(a). Amendments to sections 1.1 and 1.2 became effective February 7, 1983 as R.1983 d.36. See: 14 N.J.R. 1345(a), 15 N.J.R. 157(d). Subchapter 6 was readopted in compliance with Executive Order No. 66(1978), effective September 15, 1983 as R.1983 d.418. See: 15 N.J.R. 1077(a), 15 N.J.R. 1667(a). Subchapter 8 became effective May 6, 1985 as R.1985 d.225. See: 16 N.J.R. 1027(a), 17 N.J.R. 1133(a). Subchapter 9 became effective May 6, 1985 as R.1985 d.222. See: 16 N.J.R. 206(b), 17 N.J.R. 1134(a).

Subchapter 1 was repealed and a new subchapter adopted; Subchapter 2 "Title blocks for land surveyors" was repealed, effective January 21, 1986 as R.1985 d.694. See: 17 N.J.R. 2602(b), 18 N.J.R. 205(a).

Subchapter 2, Application Requirements, became effective September 8, 1987 as R.1987 d.355. 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 was readopted as R.1990 d.434. See: Source and Effective Date. See, also, section annotations.

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

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

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SUBCHAPTER 1. TITLE BLOCKS AND SEALS FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

13:40-1.1 Sealing documents

All sealing of documents must be done with an impression-type seal. A rubber stamp facsimile of the seal may not be used.

13:40-1.2 Title block on drawings; forms; removal

(a) Every licensee shall provide a title block on all drawings (except renderings), and similar information on the title page of all specifications which are prepared and sealed.

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

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

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

(e) No person shall remove a title block from any print or reproduction.

13:40-1.3 Title block contents

(a) The title block shall contain:

1. The name and location of the project;
2. The name of the engineering or land surveying individual firm, partnership, corporation, professional association or professional service corporation;
3. The full name and certificate number of the person(s) in responsible charge;
4. The title "professional engineer" or "land surveyor";
5. The handwritten signature of the person(s) in responsible charge and the date when signed.

(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 land surveyor who performed the land surveying work.

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

13:40-1.4 Proposed title block form

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

13:40-1.5 Title block use for professional engineer and land surveyor work project

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

13:40-1.6 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.

SUBCHAPTER 2. APPLICATION REQUIREMENTS

Historical Note

All provisions of this subchapter "Title blocks for land surveyors", became effective prior to September 1, 1969. Amendments became effective February 7, 1983 as R.1983 d.36. See: 14 N.J.R. 1345(a), 15 N.J.R. 157(d). This subchapter was repealed effective January 21, 1986 as R.1985 d.694. See: 17 N.J.R. 2602(b), 18 N.J.R. 205(a). New subchapter became effective September 8, 1987 as R.1987 d.355. See: 19 N.J.R. 851(a), 19 N.J.R. 1649(b).

13:40-2.1 Form

All applications must be typewritten and notarized.

13:40-2.2 Deadlines

(a) All applications and supplemental documents must be submitted to the Board office within the prescribed deadlines to be considered for admission to the next regularly scheduled examination. It is the applicant's responsibility to verify the receipt of all documents by the Board office.

(b) Failure to meet prescribed deadlines shall result in the denial of the application and rescheduling for a following examination.

13:40-2.3 Education

(a) Each applicant shall provide the Board with an official transcript reflecting the degree(s) earned by the applicant. Said transcript must be sent directly from the institution to the Board and must include the Board assigned application number of the applicant.

(b) An applicant with a non-United States degree who has documented that due to political or economic sanctions he is unable to have the transcript sent directly to the Board must submit his original transcript to the Board office. The applicant must also provide a literal, verbatim English translation, certified to be accurate by a competent authority. In addition, the applicant must list all courses and their description on the Reconstruction Form which is provided by the Board.

(c) Any applicant who has attended an institution not located in the United States shall have his or her degree evaluated by a review service selected and approved by the Board. Reviews by other services will not be accepted.

Cross References

Exception, see N.J.A.C. 13:40-2.3.

13:40-2.4 Language comprehension requirement

An applicant for licensure as a professional engineer or land surveyor who is from a non-English speaking country or a country wherein the primary language is other than English, prior to taking the examination shall submit to the Board a TOEFL (Test of English) certificate with a minimum score of 575 and a TSE (Test of Spoken English) with a minimum score of 200. This test shall have been taken within two years of application. An applicant who has received a B.S. from a country wherein the primary language is English will be exempted from this requirement.

13:40-2.5 Experience

(a) An applicant who has received an engineering degree from a college or university not located in the United States must have gained two years of professional engineering experience acceptable to the Board which has been gained in the United States to be eligible to sit for the fundamentals of engineering exam.

(b) Pursuant to N.J.S.A. 45:8-35, an applicant who is applying to sit for the principles and practices exam must have four years of professional engineering experience acceptable to the Board, two years of which must have been gained in the United States.

13:40-2.6 References

(a) The following rules shall apply to all applicants:

1. Reference 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.

(b) References shall be provided as follows:

1. Engineer-in-training applicants: Of the three references required, one shall be a licensed professional engineer in the United States and have personal knowledge of the applicant's experience or training.

2. Professional engineer applicants: Of the five references required, three must be licensed professional engineers in the United States and have personal knowledge of the applicant's experience or training.

3. Professional land surveyor applicants: Of the five references required, three must be licensed land surveyors in the United States and have personal knowledge of the applicant's experience or training.

(c) The Board shall accept a National Council of Engineering Examiners record book for transcript and reference documents only.

1. This booklet must be labeled with the application number.

2. References over six months old will not be accepted.

3. Transcripts that are illegible or do not contain a visible official registrar's seal will not be accepted.

4. All professional experience, listing of documents and education received must be typed according to the format provided in the application.

13:40-2.7 Comity

(a) Comity licensure pursuant to N.J.S.A. 8-35(1)(d) or (e) shall be granted provided that education, experience, and examination requirements for licensure by the issuing agency are comparable to current requirements of the State of New Jersey.

(b) All prior State licenses must be current, active and in good standing in order for licensure pursuant to N.J.S.A. 45:8-35(1)(d) or (e) to be granted. The Board's enabling legislation does not contain an eminence or grandfather clause, nor reciprocity with any state, territory or country.

13:40-2.8 Waiver

(a) The Board may waive the fundamentals of engineering portion of the exam provided that, in addition to the education requirements at N.J.A.C. 13:40-2.3, the applicant has a specific record of an additional 15 years or more of experience at the time of application in engineering work of a character satisfactory to the Board. 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.

(b) The specialized training section of the exam shall not be waived.

13:40-2.9 Cancellation of applications

(a) Any applicant for any eight hour section of the examinations given for professional engineering or land surveying who fails any part, with a score of 65 percent or below on three consecutive occasions, shall have said application cancelled.

(b) Any applicant who has had an application cancelled as in (a) above, may only reapply for examination after a two year period and must reapply under the same application number originally assigned.

(c) Any applicant who fails to sit for two consecutive exams for which said individual was eligible or scheduled to take, shall have said application cancelled.

(d) Any applicant who has had an application cancelled for failure to sit as in (c) above may only reapply after a six month period and must reapply under the same application number originally assigned.

(e) Applications will be cancelled at a public meeting after notice to the applicant.

(f) An applicant who has had an application cancelled will be required to submit a new application, pay appropriate fees, meet Board deadlines, and again submit all required documents, including references.

13:40-2.10 Review of examination

(a) An applicant who has taken the fundamentals of engineering exam, fundamentals of land surveying exam, or principles and practices of land surveying and the New Jersey L.S. exam, may request a hand score and score tabulations of each exam taken. The applicant may not personally review the exams.

(b) An applicant who has taken the principles and practices exam may request to review his or her solution pamphlet and the correct solution answers.

(c) All requests for scoring or review must be made in writing within 30 days of the mailing of score to the applicant.

(d) An applicant may not appeal, or request re-evaluation of the exam.

SUBCHAPTER 3. MISCONDUCT

13:40-3.1 Enumeration of prohibited acts

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

1. Acting for his client or employer in professional matters otherwise than as a faithful agent or trustee; accepting any remuneration other than his stated recompense for services rendered.

2. Disregarding the safety, health and welfare of the public in the performance of his professional duties; preparing or signing and sealing plans, surveys or specifications which are not of a safe design and in conformity with accepted standards. If the client or employer insists on such conducts, the licensee shall notify the proper authorities and withdraw from further service on the project.

3. Advertising his work or merit using claims of superiority which cannot be substantiated.

4. Engaging in any activity which involves him in a conflict of interest, including without limitation:

i. A licensee shall inform his client or employer of any business connection, interest or circumstance which might be deemed as influencing his judgment or the quality of his services to the client or employer.

ii. When in public service as a member, advisor or employee of a governmental agency, a licensee shall not participate in the deliberations or actions of such agency with respect to services rendered or to be rendered by the licensee or any firm or organization with which he is associated in private practice.

iii. A licensee shall not solicit or accept a professional contract from a governmental agency upon which a principal, officer or employee of his firm or organization serves as a member, advisor or employee.

iv. A licensee shall not accept compensation or remuneration, financial or otherwise, from more than one interested party for the same service or for services pertaining to the same work, unless there has been full disclosure to and consent by all interested parties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section recodified.

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

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

Added (a)8, 9 and 10.

Amended by R.1988 d.394, effective August 15, 1988.

See: 20 N.J.R. 736(a), 20 N.J.R. 2068(a).

Substantially amended.

Case Notes

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

13:40-3.2 Reporting incidents of professional misconduct

If a licensee has knowledge or reason to believe that another person or firm may be in violation of or has violated any of the statutes or rules administered by the Board of

Professional Engineers and Land Surveyors, he or she shall present such information to the Board in writing and shall cooperate with the Board in furnishing such information or assistance as may be required by the Board.

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

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

SUBCHAPTER 4. GENERAL PROVISIONS

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

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

(b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(c) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purpose of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

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

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

13:40-4.2 (Reserved)

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

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

Recodified from 13:40-4.1.

Repeal by administrative change.

See: 25 N.J.R. 1516(b).

SUBCHAPTER 5. LAND SURVEYORS; PREPARATION OF LAND SURVEYS

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

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

(b) Prior to conducting a survey, the licensed 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 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 land surveyor or under the supervision of the licensed land surveyor. Such markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible, or unless a written waiver signed by the ultimate user is obtained and retained for a period of six years by the surveyor performing the survey. A waiver obtained from a purchaser pursuant to this subsection shall be in the following format, or its substantial equivalent:

WAIVER AND DIRECTION NOT TO SET CORNER MARKERS

TO: _____
(Name, address and telephone number of Land Surveyor)
FROM: _____
(Name, address and telephone number of Purchaser)
Re: _____
Property (Lot & Block number, municipality or other identifier)

This is to advise that I/we have been made aware of my/our right to have corner markers set as part of a survey to be performed on property which is being purchased by me/us. That right is hereby waived and you are directed to perform the land survey without the setting of corner markers as provided by the regulation of the New Jersey Board of Professional Engineers and Land Surveyors.

Purchaser(s)

Dated: _____

For the purpose of this section "ultimate user" shall mean, in the case of a transfer of title, the purchaser. In all instances other than the transfer of title, "ultimate user" shall mean the owner of the property. When a waiver is obtained to omit corner markers, a specific notation stating that such omissions have been made by direction of the ultimate user shall be clearly displayed on the plat or plan of survey by the following notation or its equivalent:

Waiver of setting corner markers obtained from ultimate user pursuant to the Board of Professional Engineers and Land Surveyors regulation, N.J.A.C. 13:40-5.1(d).

This notation must relate specifically to that plat or plan of survey and may not be included as a preprinted title block, standard form, or other reproducible medium.

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

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

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

The above described marker requirements do not apply to intermediate points set on line or for random traverse points.

3. In all cases listed in (d)2 above, including monuments set in accordance with the map filing law, the marker shall be identified with a durable cap, disc, or shiner, etc., bearing the name of the surveyor or firm responsible for setting the corner.

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

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

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

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

1. Title block complying with N.J.A.C. 13:40-2.1 et seq.;

2. The State, county and municipality in which the property is located and specific data as provided by the owner identifying the property or other pertinent identifying data as deemed appropriate by the surveyor, including block, lot number and address;

3. North arrow (with reference used) and scale;

4. The point of beginning;

5. Metes and bounds of the property in question; all measurements are to be indicated in feet and decimals of a foot except when legal requirements or professional custom and usage require another form of measurement;

6. Property corner markers, both found and set, or the relation of existing markers to the property corner or, if appropriate, to the boundary lines;

7. Street and street names and widths when such streets abut or adjoin the property in question. If the street is not open, the survey should so indicate;

8. Encroachments of structures both on the premises in question and/or adjoining properties;

9. Fences, tree rows, hedges, streams, ditches, building locations, easements and any physical occupation influencing property line determination;

10. In all cases, survey work shall be performed in accordance with currently accepted accuracy standards, but such accuracy standards may be limited by contractual agreements. Such limitations shall be appropriately noted on the final drawing.

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

1. Areas of established city lots or recorded subdivision map lots, unless the area is recited in the record deed of the property in question;

2. Fences and streams and ditches, unless such fences, streams and ditches are on or in close proximity to the property lines and affect the property in question;

3. Sidewalks, driveways, walkways or other traveled ways, unless such ways affect the property in question;

4. Utility lines, easements of right-of-way lines, except when recited in the record deed or when such utility lines, easements of right-of-way lines affect the use of adjacent properties or the property in question;

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

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

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

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

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

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

(k) Tax assessment maps must be prepared by a licensed 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 land surveyor to disciplinary action in accordance with N.J.S.A. 45:8-38.

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

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

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

3. In all instances, including where deeds are used to record minor subdivisions and/or where an existing plat or plan of survey is used, only the licensee who prepared the boundary map on which the subdivision is based may provide the certification on the subdivision plat that the boundary survey is accurate and was prepared under his or her supervision, as required by the Map Filing Law, N.J.S.A. 46:23-9.11(m), and in accordance with N.J.A.C. 13:40-9, Responsible Charge of Engineering or Land Surveying Work.

(n) Maps prepared to show topographic data or planimetric data which also delineate property lines or street right-of-way lines thereon shall be prepared by a licensed land surveyor. Such survey information may be transposed to construction plans or other drawings if duly noted as to the date of the survey, by whom, and for whom it was prepared.

R.1977 d.160, effective May 5, 1977.
 See: 8 N.J.R. 560(b), 9 N.J.R. 290(a).
 As amended, R.1984 d.401, effective September 4, 1984.
 See: 15 N.J.R. 1834(a), 16 N.J.R. 2369, 16 N.J.R. 2824(a).
 Section substantially amended. Correction in (d): "corner not previously".
 Amended by R.1985 d.465, effective September 3, 1985.
 See: 17 N.J.R. 799(a), 17 N.J.R. 2140(a).
 Added text in (d)3: "including monuments set in accordance with the map filing law."
 Amended by R.1987 d.215, effective May 18, 1987.
 See: 18 N.J.R. 2367(b), 19 N.J.R. 881(b).
 Subsection (i) amended to clarify policies of the Board which may not have been expressly understood by all land surveyors.
 Amended by R.1988 d.45, effective January 19, 1988.
 See: 19 N.J.R. 1631(a), 20 N.J.R. 203(a).

Added text to (d) defining the "ultimate user".
 Amended by R.1993 d.60, effective February 1, 1993.
 See: 24 N.J.R. 51(a), 24 N.J.R. 554(a), 25 N.J.R. 596(a).
 Revised (d).
 Amended by R.1994 d.77, effective February 7, 1994.
 See: 25 N.J.R. 5447(b), 26 N.J.R. 822(a).

Statutory References

N.J.S.A. 45:8-28(e).

SUBCHAPTER 6. FEES

13:40-6.1 Fee schedule

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

1. Application fees:
 - i. Engineer-in-training\$30.00
 - ii. Professional engineer\$75.00
 - iii. Land surveyor\$75.00
2. Examination fees:
 - i. Engineer-in-training (fundamentals of engineering).....\$70.00
 - ii. Professional engineer:
 - (1) Fundamentals\$70.00
 - (2) Specialized training\$85.00
 - iii. Land surveyor:
 - (1) Fundamentals\$70.00
 - (2) Specialized training (Principles of land surveying and New Jersey State portion)\$150.00
3. Initial license fee:
 - i. During the first year of a biennial renewal period\$80.00
 - ii. During the second year of a biennial renewal period\$40.00
4. Biennial renewal fee\$80.00
5. Late renewal fee\$50.00
6. Reinstatement fee\$125.00
7. Duplicate license fee\$20.00
8. Replacement wall certificate\$40.00
9. Continuing competency program review fee:
 - i. (Reserved)
 - ii. For each course for which a licensee seeks approval\$10.00

10. All licensees, and the clerks of each municipality in the State, shall receive without charge one copy of the roster of licensed professional engineers and land surveyors. Additional copies, if and when available, may be purchased at a fee of \$20.00 each.

11. Fees shall be nonrefundable and nontransferable.

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

13. Any applicant who requests an exam review or score tabulation must pay via certified check or money order the actual cost of the review or tabulation.

(b) For a Certificate of Authorization issued pursuant to P.L. 1989, c.276, general business corporations offering to provide engineering or land surveying services in New Jersey shall pay a fee of \$120.00 for a biennial period, or \$60.00 per year.

R.1978 d.193, effective June 9, 1978.

See: 10 N.J.R. 71(a), 10 N.J.R. 295(d).

Amended by R.1980 d.417, effective September 25, 1980.

See: 12 N.J.R. 493(a), 12 N.J.R. 671(b).

(a)7: Material concerning fees for transmittal of grades or certification repealed; renumbered (a)8 as (a)7.

Amended by R.1983 d.148, effective May 16, 1983.

See: 15 N.J.R. 78(b), 15 N.J.R. 807(c).

Increased professional engineering specialized training fee from \$15.00 to \$30.00 and land surveyor two parts from \$15.00 to \$60.00.

Amended by R.1986 d.37, effective February 18, 1986.

See: 17 N.J.R. 2860(a), 18 N.J.R. 421(b).

Fees were raised and section was substantially amended.

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

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

Added (a)9 and 10.

Amended by R.1991 d.285, effective June 3, 1991.

See: 22 N.J.R. 3315(a), 23 N.J.R. 1816(a).

Added (b).

Amended by R.1992 d.247, effective June 15, 1992.

See: 24 N.J.R. 1231(a), 24 N.J.R. 2285(a).

Revised (a).

Amended by R.1995 d.305, effective June 19, 1995.

See: 26 N.J.R. 4314(a), 27 N.J.R. 2415(a).

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

13:40-7.1 General provisions

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

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

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

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

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

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

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

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

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

Amended by R.1994 d.322, effective July 5, 1994.

See: 26 N.J.R. 1221(a), 26 N.J.R. 2796(a).

Administrative Correction.

See: 26 N.J.R. 3180(b).

13:40-7.3 Preparation of site plan

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

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

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

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

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

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

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

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

(i) Landscaping, signs, lighting, screening or other information not specified above: By an architect, planner, engineer, certified 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 certified landscape architect.

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

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

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

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

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 certified landscape architect.

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

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

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

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

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

13:40-7.5 Effect of local ordinances

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

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

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

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

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

SUBCHAPTER 8. MAINTENANCE OF PROJECT RECORDS**13:40-8.1 Release of project records**

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

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

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

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

SUBCHAPTER 9. RESPONSIBLE CHARGE OF ENGINEERING OR LAND SURVEYING WORK**13:40-9.1 Supervision of subordinates; maintaining records of adequate supervision; acts reflecting inadequate supervision**

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

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

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

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

SUBCHAPTER 10. CONTRACT TO PROVIDE PROFESSIONAL SERVICES**Authority**

N.J.S.A. 48:8-27 et seq., specifically 45:8-28(e).

Source and Effective Date

R.1989 d.64, effective February 6, 1989.

See: 20 N.J.R. 2243(b), 21 N.J.R. 339(a).

13:40-10.1 Contract requirement

(a) Any corporation, firm, partnership or association which does not have an executive officer, if a corporation, or a member, if a firm, partnership or association, who is licensed to practice engineering or land surveying in this State and which offers or performs engineering or land surveying services pursuant to N.J.S.A. 45:8-27 shall, prior to the offer or performance of said services, have a written contract with a New Jersey licensed professional engineer or land surveyor. Such contract shall require the licensed professional engineer or land surveyor to be in responsible charge of the engineering or surveying work contracted for and shall be consistent with the Board's enabling legislation (N.J.S.A. 45:8-27 et seq.) and all rules adopted pursuant thereto.

(b) A licensed professional engineer or a licensed land surveyor rendering engineering or surveying services for a corporation, firm, partnership or association covered by this section shall not perform such services unless the written contract required by this section is present.

**SUBCHAPTER 11. LAND SURVEYORS;
CONTINUING COMPETENCY**

Authority
N.J.S.A. 45:8-35.2.

Source and Effective Date
R.1995 d.305, effective June 19, 1995.
See: 26 N.J.R. 4314(a), 27 N.J.R. 2415(a).

13:40-11.1 License renewal

The Board shall not renew a land surveyor license for the biennial renewal period commencing May 1, 1996 or any following year unless the licensee submits, with the renewal application, proof that he or she has completed courses of continuing professional competency of the types and number of credits specified in this subchapter. Proof of completion of the required number of professional development hours shall be in the form outlined in N.J.A.C. 13:40-11.7.

13:40-11.2 Definitions

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

“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.

“Continuing education unit” (CEU) means the unit of credit customarily used for continuing education courses. One continuing education unit equals 10 contact hours of instruction in an approved continuing education course.

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

“Core course/activity” means any course or activity with a clear technical purpose and objective 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.

“Non-core course/activity” means any course or activity whose purpose and objective is to enhance the skills and knowledge in ethical and business practices related to the discipline practiced by the licensee. Examples of qualifying non-core courses include professional conduct, business practice and quality control.

“Professional development hour” (PDH) means one contact hour of professional/technical development in seminars, conferences or workshops. A PDH is the common denominator for other units of 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 professional development hours (PDHs); except that for the period May 1, 1994 to April 30, 1996, PDHs may have been accumulated from January 1, 1993.

(b) A minimum of 15 PDHs must be earned in core courses/activities.

(c) A maximum of eight PDHs may be carried over into a succeeding biennial renewal period; except that all PDHs earned between January 1, 1993 and April 30, 1994 may be carried over into the May 1, 1994 to April 30, 1996 biennial period.

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

1. Successful completion of approved college level courses;
 - i. Fifteen PDHs for each semester hour credit awarded by the college; or
 - ii. Ten PDHs for each quarter hour credit awarded by the college;
2. Successful completion of approved continuing education courses: 10 PDHs for each continuing education unit (CEU);
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 PDH for each hour of attendance at an approved course. Credit will not be granted for courses which 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 and 4 above:

- i. Service as an instructor, or workshop leader: one PDH 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 PDH 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 PDHs 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 PDH 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 PDH 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 PDHs for each biennial renewal period.

13:40-11.7 Reporting and documenting of PDHs

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

1. The dates attended;
2. PDHs 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 PDH requirements for two biennial periods after completion and shall submit such documentation to the Board upon request.

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

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

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

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

13:40-11.8 Waiver of continuing competency requirement

(a) The Board may, in its discretion, waive 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 of the continuing competency requirement must apply to the Board in writing and set forth with specificity the reasons for requesting the waiver. The licensee shall also provide the Board with such additional information as it may reasonably request in support of the waiver 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 PDH for each month since the New Jersey license was issued.

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

13:40-11.9 License restoration

The failure on the part of a licensee to renew his or her biennial certificate as required shall not relieve such person

of the responsibility to maintain professional competence. At the time of application for restoration, the licensee shall submit satisfactory proof to the Board that he or she has successfully completed all delinquent PDHs. If the total credits required to become current exceeds 30, then 30 shall be the maximum number required. However, an additional 24 PDHs 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 of having met the requirement of his or her resident jurisdiction, provided the requirements are not less than 24 PDHs per biennial renewal period. If the licensee resides in a jurisdiction that has no continuing professional competency requirements, the licensee must meet the requirements of New Jersey.

13:40-11.11 Criteria for continuing competency programs

(a) A course of acceptable subject matter shall directly and materially relate to the practice of land surveying 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.

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 PDH or CEU credits 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 a verification of attendance, 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 attendance for a six-year period; and
9. Retain a written outline of course materials for a six-year period.
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