



# Florida - Laws, Rules, & Ethics for Professional Engineers

Biennium Cycle 2013 to 2015

Course# 0009694

4 PDH Hours

## **Course Description:**

The Florida Laws, Rules, and Ethics course is designed as a distance learning interactive course that enables the practicing professional engineer to keep up to date on the legal aspects that govern the practice of engineering in the state of Florida as well as an overview of the cannons of ethics.

## **Objectives:**

The primary objective of this course is to familiarize the student with the laws and rules regulating the practice of engineering in the state of Florida. The course will focus on changes to the laws and rules that have been implemented during the previous biennium from February 2011 to February 2013. Upon successful completion of the course, the student will be well versed of these changes and will have a better understanding of the disciplinary process.

## **Grading:**

Students must achieve a minimum score of 70% on the online quiz to pass this course. The quiz may be taken as many times as necessary. The student will be asked at the end of the quiz to attest that he or she has personally and successfully completed all chapters of instruction. The quiz may be viewed in the final chapter of this course.

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## Course Inquiries

This course is designed to be interactive. The readers of this course are encouraged to contact us to discuss the practice questions as well as to discuss other questions that may arise while taking this course on the Florida Laws, Rules and Ethics for Professional Engineers. All inquiries will be answered in within two days or less. The reader can contact EZ-pdh.com in the following three ways:

**By Email:**

[helpdesk@ezpdh.com](mailto:helpdesk@ezpdh.com)

**By Phone:**

800-433-1487. Business hours are Monday through Friday 9:00 AM to 5:00 PM.

**By Fax:**

Fax your inquiry to (386) 689-2170 using the fax form provided below.

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### FACSIMILE TRANSMITTAL SHEET

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**Comments:**

# Section 1

## **Florida Rules – rules adopted, amended, or repealed during the immediate preceding biennium**

**Table 1:** List of Rule changes that have been adopted in their final form on or after 1-Jul-10 and before 31-May-14

Florida Rule	Description	Date Effective
61G15-18.005	Probable Cause Determination	2-Feb-12
61G15-18.008	Adoption of Model Rules of Procedure (Repealed).	2-Feb-12
61G15-18.010	Approved Schools and Colleges (Repealed).	2-Feb-12
61G15-18.011	Definitions.	2-Feb-12
61G15-18.015	Education Advisory Committee (Repealed).	2-Feb-12
61G15-19.003	Purpose (Repealed)	2-Feb-12
61G15-19.0051	Notice of Noncompliance	26-Aug-13
61G15-19.0071	Citations 6/20/1	26-Aug-13
61G15-19.008	Confidentiality of Investigations.	5-Jun-12
61G15-20.015	Application for Licensure by Endorsement	14-Sep-14
61G15-20.007	Educational Requirements for Applicants Without EAC/ABET Accredited Engineering Degrees.	4-Feb-13
61G15-21.001	Written Examination Designated; General Requirements.	25-Sep-13
61G15-22.001	Continuing Education Requirements	7-Mar-13
61G15-22.006	Demonstrating Compliance.	20-Aug-12
61G15-22.007	Noncompliance (Repealed).	2-Feb-12
61G15-23.001	Seals Acceptable to the Board.	2-Feb-12
61G15-23.003	Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents.	10-Dec-13
61G15-29.001	Certification Definition, Procedures, Prohibitions.	20-Aug-12
61G15-30.009	Retention of Engineering Documents 6/20/1	26-Aug-13
61G15-35.001	General Responsibility (Repealed).	13-Feb-12
61G15-35.002	Definitions (Repealed).	13-Feb-12
61G15-35.003	Qualification Program for Special Inspectors of Threshold Buildings 11/29/12 2/4/1	4-Feb-13
61G15-35.004	Common Requirements to All Engineers Providing Threshold Building Inspection Services as Special Inspectors	4-Feb-13

*Note: Strike-through ~~text~~ indicates text deleted from rule  
High-lighted **text** indicates text added to rule*

<b>Notice:</b>	10954712 (61G15-18.0005)
<b>Effective Date:</b>	2/2/2012
<b>Purpose and Effect:</b>	The Board reviewed the rule pursuant to Executive Order 11-01, Section 5, and proposes the rule amendment to delete unnecessary language and renumber the rule accordingly.
<b>Summary:</b>	The rule amendment will delete unnecessary language and renumber the rule accordingly.
<b>Final Rule Date:</b>	2/2/2012

#### **61G15-18.005 Probable Cause Determination.**

Probable cause determination as to a violation of Chapter 471, or 455, F.S., and rules promulgated pursuant thereto shall be made by a probable cause panel of three (3) board members or two (2) board members and one (1) past board member. Said members shall be appointed as a standing probable cause committee at the first board meeting of each calendar year and shall serve for a period of one (1) year. All proceedings of the probable cause panel shall be conducted in accordance with Chapters 120 and 455, F.S.

~~(2) Notwithstanding the procedure outlined in subsection (1) above, the Board hereby delegates to the Department the determination of probable cause when the only charge that otherwise would go before the probable cause panel is that of failure to comply with the Board's final order pursuant to Section 471.033(1)(k), F.S., and paragraph 61G15-19.001(6)(o), F.A.C. Should an investigation support charges in addition to the failure to comply with the Board's final order, the case shall be presented to the probable cause panel for a determination of probable cause.~~

*Rulemaking Authority 455.225 FS. Law Implemented 455.225 FS. History New 1-8-80, Amended 4-5-81, Formerly 21H-18.05, 21H-18.005, Amended 11-15-94, 1-6-02, 2-2-12.*

<b>Notice:</b>	10954809 (61G15-18.0008)
<b>Effective Date:</b>	2/2/2012
<b>Purpose and Effect:</b>	The Board proposes to repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Summary:</b>	The rule repeal will repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Final Rule Date:</b>	2/2/2012

**61G15-18.008 Adoption of Model Rules of Procedure.**

~~Except as hereinafter provided all administrative proceedings of the Board shall be conducted in accordance with Chapter 120, F.S. and Chapter 28, F.A.C. (Model Rules of Administrative Procedure)- Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History New 1-8-80, Formerly 21H-18.08, 21H-18.008, Repealed 2-12-12.~~

<b>Notice:</b>	10954906 (61G15-18.010)
<b>Effective Date:</b>	2/2/2012
<b>Purpose and Effect:</b>	The Board proposes to repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Summary:</b>	The rule repeal will repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Final Rule Date:</b>	2/2/2012

**61G15-18.010 Approved Schools and Colleges.**

~~A list of the approved degree programs of schools and colleges acceptable to the Board, both as education and as experience, for admittance to the examination shall be maintained by the Board as an official record of the Board with such additions or deletions as the Board may determine by official act from time to time.~~

~~Specific Authority 1471.008, 471.013 FS. Law Implemented 471.013 FS. History New 1-8-80, Formerly 21H-18.10, 21H-18.010, Repealed 2-2-12.~~

<b>Notice:</b>	10955003 (61G15-18.011)
<b>Effective Date:</b>	2/2/2012
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to delete unnecessary language and to renumber the rule accordingly.
<b>Summary:</b>	The rule amendment will delete unnecessary language and renumber the rule accordingly. Certifications made by professional engineers shall be signed AND sealed.
<b>Final Rule Date:</b>	2/2/2012

### **61G15-18.011 Definitions.**

As used in Chapter 471, F.S., and in these rules where the context will permit the following terms have the following meanings:

(1) Responsible Charge shall mean that degree of control an engineer is required to maintain over engineering decisions made personally or by others over which the engineer exercises supervisory direction and control authority. The engineer in responsible charge is the Engineer of Record as defined in subsection 61G15-30.002(1), F.A.C.

(a) The degree of control necessary for the Engineer of Record shall be such that the engineer:

1. Personally makes engineering decisions or reviews and approves proposed decisions prior to their implementation, including the consideration of alternatives, whenever engineering decisions which could affect the health, safety and welfare of the public are made. In making said engineering decisions, the engineer shall be physically present or, if not physically present, be available in a reasonable period of time, through the use of electronic communication devices, such as electronic mail, videoconferencing, teleconferencing, computer networking, or via facsimile transmission.

2. Judges the validity and applicability of recommendations prior to their incorporation into the work, including the qualifications of those making the recommendations.

3. Approves the inclusion of standard engineering design details into the engineering work. Standard engineering design details include details mandated or directed to be contained in engineering documents by governmental agencies (such as the Florida Department of Transportation); and details contained in engineering design manuals and catalogues that are generally accepted as authoritative in the engineering profession. In order to approve the inclusion of such details the Engineer of Record must conduct such reasonable analysis of the content of the standard detail(s) as is necessary in the sound professional judgment of the Engineer of Record to be assured that the inclusion of such detail(s) into the engineering work is acceptable engineering practice.

(b) Engineering decisions which must be made by and are the responsibility of the Engineer of Record are those decisions concerning permanent or temporary work which could create a danger to the health, safety, and welfare of the public, such as, but not limited to, the following:

1. The selection of engineering alternatives to be investigated and the comparison of alternatives for engineering works.

2. The selection or development of design standards or methods, and materials to be used.

3. The selection or development of techniques or methods of testing to be used in evaluating materials or completed works, either new or existing.

4. The development and control of operating and maintenance procedures.

(c) As a test to evaluate whether an engineer is the Engineer of Record, the following shall be



considered:

1. The engineer shall be capable of answering questions relevant to the engineering decisions made during the engineer's work on the project, in sufficient detail as to leave little doubt as to the engineer's proficiency for the work performed and involvement in said work. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the engineer in responsible charge made them and possessed sufficient knowledge of the project to make them. Examples of questions to be answered by the engineer could relate to criteria for design, applicable codes and standards, methods of analysis, selection of materials and systems, economics of alternate solutions, and environmental considerations. The individuals should be able to clearly define the span and degree of control and how it was exercised and to demonstrate that the engineer was answerable within said span and degree of control necessary for the engineering work done.

2. The engineer shall be completely in charge of, and satisfied with, the engineering aspects of the project.

3. The engineer shall have the ability to review design work at any time during the development of the project and shall be available to exercise judgment in reviewing these documents.

4. The engineer shall have personal knowledge of the technical abilities of the technical personnel doing the work and be satisfied that these capabilities are sufficient for the performance of the work.

(d) The term responsible charge relates to engineering decisions within the purview of the Professional Engineers Act and does not refer to management control in a hierarchy of professional engineers except as each of the individuals in the hierarchy exercises independent engineering judgement and thus responsible charge. It does not refer to administrative and personnel management functions. While an engineer may also have such duties in this position, it should not enhance or decrease one's status of being in responsible charge of the work. The phrase does not refer to the concept of financial liability.

(2) Engineering Design shall mean that the process of devising a system, component, or process to meet desired needs. It is a decision-making process (often iterative), in which the basic sciences, mathematics, and engineering sciences are applied to convert resources optimally to meet a stated objective. Among the fundamental elements of the design process are the establishment of objectives and criteria, synthesis, analysis, construction, testing and evaluation. Central to the process are the essential and complementary roles of synthesis and analysis. This definition is intended to be interpreted in its broadest sense. In particular the words system, component, or process and convert resources optimally operate to indicate that sociological, economic, aesthetic, legal, ethical, etc., considerations can be included.

(3) The term evaluation of engineering works and systems as used in the definition in the practice of engineering set forth in Chapter 471.005(4)(a), F.S., includes but is not limited to services provided by testing laboratories involving the following:

(a) The planning and implementation of any investigation or testing program for the purpose of developing design criteria either by an engineering testing laboratory or other professional engineers.

(b) The planning or implementation of any investigation, inspection or testing program for the purpose of determining the causes of failures.

(c) The preparation of any report documenting soils or other construction materials test data.

(d) The preparation of any report offering any engineering evaluation, advice or test results, whenever such reports go beyond the tabulation of test data. Reports which document soils or other construction materials test data will be considered as engineering reports.

(e) Services performed by any entity or provided by a testing laboratory for any entity subject to regulation by a state or federal regulatory agency which enforces standards as to testing shall be exempt from this rule except where the services otherwise would require the participation of a professional engineer.

(4) certification shall mean a statement signed and ~~or~~ sealed by a professional engineer representing that the engineering services addressed therein, as defined in Section 471.005(6), F.S., have been performed by the professional engineer, and based upon the professional engineer's knowledge, information and belief, and in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied.

~~(5) FEMC shall mean the Florida Engineers Management Corporation, created in Section 471.038(3), F.S.~~

(5) The term principal officer(s) of the business organization as used in Section 471.023(1), F.S., means the (a) President, Vice President, Secretary or Treasurer of the Corporation, or Limited Liability Company (LLC); or (b) any other officer who has management responsibilities in the corporation or LLC, as documented by the corporate charter or bylaws so long as such documentation provides that such officer is empowered to bind the corporation or LLC in all of its activities which fall within the definition of the practice of engineering as that term is defined in Section 471.005(7), F.S.

*Rulemaking Authority 471.008, 471.013(1)(a)1., 2. FS. Law Implemented 471.003(2)(f), 471.005(7), 471.005(6), 471.013(1)(a)1., 2., 471.023(1), 471.025(3), 471.033(1)(j) FS. History New 6-23-80, Amended 12-19-82, 11-22-83, Formerly 21H-18.11, Amended 1-16-91, 4-4-93, Formerly 21H-18.011, Amended 12-22-99, 4-19-01, 10-16-02, 9-15-04, 6-5-08, 6-2-09, 2-2-12.*

<b>Notice:</b>	10955100 (61G15-18.015)
<b>Effective Date:</b>	2/2/2012
<b>Purpose and Effect:</b>	The Board proposes to repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Summary:</b>	The rule repeal will repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Final Rule Date:</b>	2/2/2012

**61G15-18.015 Education Advisory Committee.**

~~The Board shall appoint an Educational Advisory Committee which shall be composed of not less than one (1) member of the Board. The committee shall be advised by expert consultants retained by FEMC Said consultants shall be individuals who have knowledge and experience of curricula of engineering schools and colleges and of national accreditation standards for professional degrees in engineering programs which shall have been gained either as a college faculty member or as a professional engineer. The Educational Advisory Committee shall examine and review applications for examination or licensure by endorsement made to the Board under the provisions of Rule 61G15 20.006, F.A.C., to insure that the engineering curricula and applicant's degree programs meet required standards of accreditation. The Educational Advisory Committee shall make recommendations to the Board as to whether an applicant shall be approved for admittance to the examination or for licensure by endorsement.~~

*Rulemaking Authority 471.008 FS. Law Implemented 471.008, 471.013 FS. History New 8-18-87, Amended 2-18-88, Formerly 21H-18.015, repealed 2-2-12.*

<b>Notice:</b>	10955197 (61G15-19.003)
<b>Effective Date:</b>	2/2/2012
<b>Purpose and Effect:</b>	The Board proposes to repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Summary:</b>	The rule repeal will repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Final Rule Date:</b>	2/2/2012

#### **61G15-19.003 Purpose.**

~~To comply with the purpose of Chapter 471, F.S., which is to safeguard life, health, and property to promote the public welfare and to maintain a high standard of integrity and practice, the Board of Professional Engineers has developed Grounds for Disciplinary Proceeding. These rules shall be binding on every person holding a license to offer or perform engineering services in this State. All persons registered under Chapter 471, F.S., are required to be familiar with Chapter 471, F.S., and the rules promulgated thereto. The Grounds for Disciplinary Proceedings delineate specific obligations which must be met by a professional engineer.~~

*Specific Authority 471.033(2) FS. Law Implemented 471.001, 471.033 FS. History New 5-14-86, Formerly 21H-19.3 , repealed 2-2-12*

<b>Notice:</b>	13366617 (61G15-19.0051)
<b>Effective Date:</b>	8/26/2013
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to modify language for notice of noncompliance.
<b>Summary:</b>	The rule amendment will modify language for notice of noncompliance.
<b>Final Rule Date:</b>	8/26/13

#### **61G15-19.0051 Notice of Noncompliance.**

(1) As an alternative to investigation and prosecution, when a complaint is received, FEMC shall provide a licensee with a notice of noncompliance for an initial offense for the following violations:

(a) through (c) No change.

(d) Failing to report a criminal conviction or plea of nolo contendere, regardless of adjudication, pursuant to Section 455.227(1)(t), F.S., **if the licensee self reports after 30 days from the date of**

conviction or plea but within one (1) year after the date of the conviction or plea if the conviction or plea occurred prior to July 1, 2009. This subparagraph shall remain in effect until July 1, 2012.

(2) No change.

Rulemaking Authority 455.225 FS. Law Implemented 455.224 FS. History—New 4-2-00, Amended 5-5-10, 8-16-13

<b>Notice:</b>	13366714 (61G15-19.0071)
<b>Effective Date:</b>	8/26/13
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to add new language to set the citations for unlicensed practice of engineering
<b>Summary:</b>	The rule amendment will delete unnecessary language and to add new language to set the citations for unlicensed practice of engineering
<b>Final Rule Date:</b>	8/26/13

#### **61G15-19.0071 Citations.**

(1) As used in this rule, “citation” means an instrument which meets the requirements set forth in Section 455.224, F.S., and which is served upon a licensee or certificateholder for the purpose of assessing a penalty in an amount established by this rule.

(2) In lieu of the disciplinary procedures contained in Section 455.225, F.S., FEMC is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint that is the basis for the citation. If a violation for which a citation may be issued is discovered during the course of an investigation for an unrelated violation, the citation must be issued within 6 months from the discovery of the violation and filing of the uniform complaint form by the investigator.

(3) The following violations with accompanying fines may be disposed of by citation:

(a) An engineer who has practiced or offered to practice engineering through a corporation, partnership, or fictitious name which has not been duly certified. The fine shall be \$100 for each month or fraction thereof of said activity, up to a maximum of \$5,000. (See Sections 455.227(1)(j), 471.023, and 471.033(1)(a), F.S.)

(b) Practice with an inactive or delinquent license more than one month or if a Notice of Noncompliance has previously been issued for the same offense. The fine shall be \$100 for each month or fraction thereof. (See Section 471.033(1)(i), F.S.)

(c) Firm practicing without a current certificate of authorization more than one month or if a Notice of Noncompliance has previously been issued for the same offense. The fine shall be \$100 for each month or fraction thereof. (See Section 471.023, F.S.)

(d) Failure to notify the Board of a change in the principal officer of the corporation or partner in a partnership who is the qualifying professional engineer for said corporation or partnership within one month of such change. The fine shall be \$500. (See Section 471.023(4), F.S.)

(e) Unlicensed practice of engineering. The fine shall be up to \$250 for each month depending on the severity of the infraction practice, up to a maximum of \$5,000.00. (See Section 455.228(3)(a), F.S.)

(4) If the subject does not dispute the matter in the citation in writing within 30 days after the citation is served by personal service or within 30 days after receipt by certified mail, the citation shall become a final order of the Board of Professional Engineers. The subject has 30 days from the date the citation becomes a

final order to pay the fine and costs. Failure to pay the fine and costs within the prescribed time period constitutes a violation of Section 471.033(1)(k), F.S., which will result in further disciplinary action. All fines and costs are to be made payable to “Florida Engineers Management Corporation – Citation.”

(5) Prior to issuance of the citation, the investigator must confirm that the violation has been corrected or is in the process of being corrected.

(6) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions of Chapter 119, F.S. The citation and complaint may be considered as aggravating circumstances in future disciplinary actions pursuant to Rule 61G15-19.004, F.A.C.

(7) Subsequent violation(s) of the same rule or statute shall require the procedure of Section 455.225, F.S., to be followed. In addition, should the offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 455.255, F.S., shall apply.

*Rulemaking Authority 455.224, 455.225, 455.228(3)(a) FS. Law Implemented 455.224, 455.227, 455.228(3)(a), 471.023, 471.033 FS. History—New 4-2-00, Amended 9-26-05, 8-26-13.*

<b>Notice:</b>	11552329 (61G15-19.008)
<b>Effective Date:</b>	6/5/2012
<b>Purpose and Effect:</b>	The Board reviewed the rule pursuant to Executive Order 11-01, Section 5, and proposes the rule amendment to delete unnecessary language and renumber the rule accordingly, and to correct reference to subsection 61G15-
<b>Summary:</b>	The rule amendment will delete unnecessary language and renumber the rule accordingly and correct reference to subsection 61G15-19.001(6), F.A.C. to subsection 61G15-19.001(7), F.A.C.
<b>Final Rule Date:</b>	6/5/2012

**61G15-19.008 Confidentiality of Investigations.**

~~(1) In accordance with Section 455.225, F.S., investigation records are confidential until an investigation ceases to be active. An investigation ceases to be active when the case is dismissed prior to a finding of probable cause and the board has not exercised its option to pursue the case, or ten (10) days after the Board makes a determination regarding probable cause. However, in accordance with Section 471.038(6), F.S., in response to an inquiry about the licensure status of an individual, the management corporation shall disclose the existence of an active investigation if the nature of the violation under investigation involves the potential for substantial physical or financial harm to the public.~~

(2) The following violations have been deemed to involve the potential for substantial physical or financial harm to the public:

Negligence, as defined in subsection 61G15-19.001(4), F.A.C., or misconduct, as defined in subsection 61G15-19.001(7)(6), F.A.C., involving threshold buildings as defined in Section 553.71(7), F.S.

<b>Notice:</b>	15007954 (61G15-20.0015)
<b>Effective Date:</b>	9/14/14
<b>Purpose and Effect:</b>	The Board proposes the rule amendment in order to incorporate the revised "Application for Licensure by Endorsement," form FBPE/002, into the current rule.
<b>Summary:</b>	The rule amendment will incorporate the revised "Application for Licensure by Endorsement," form FBPE/002, into the current rule.
<b>Final Rule Date:</b>	9/14/14

#### **61G15-20.0015 Application for Licensure by Endorsement.**

(1) Any person desiring to be licensed as a professional engineer by endorsement shall submit a completed application form to the Board. The instructions and application Form FBPE/002 (06-13 06-01), entitled "Application For Licensure By Endorsement", which is hereby incorporated herein by reference, effective 9-27-04, copies of which may be obtained from the Board office at 2639 North Monroe Street, Suite B-112, Tallahassee, Florida 32303; or from the Board's website at <http://www.fbpe.org/licensure/application-process> or at <http://www.flrules.org/Gateway/reference.asp?No=Ref-04514>. The Board shall certify as eligible for licensure by endorsement applicants who have completed the application form, remitted the application fee for licensure by endorsement required by Chapter 61G15-24, F.A.C., and who have demonstrated to the Board that:

(a) The applicant meets the current criteria listed in Section 471.013, F.S., (the burden of proving the equivalency of any examination shall rest with the applicant); or

(b) The applicant holds a valid license to practice engineering issued by another state or territory of the United States, provided that the criteria for issuing the license was substantially the same as the licensure criteria which existed in Florida at the time the license was issued.

(2) If an applicant for licensure by endorsement satisfies any one of the conditions found in Section 471.015(5)(a)1., 2., or 3., F.S., then the Board shall deem that the applicant has passed an examination substantially equivalent to part I, fundamentals, of the engineering examination. If an applicant for licensure by endorsement satisfies the conditions found in Section 471.015(5)(b), F.S., then the Board shall deem that the applicant has passed an examination substantially equivalent to part I, fundamentals, and part II, principles and practice, of the engineering examination.

(3) An applicant for licensure by endorsement who has taken and failed either the fundamentals or the principles and practice examinations three (3) times or more before passing, must document compliance with Rule 61G15-21.007, F.A.C., as a condition of eligibility for licensure by endorsement.

(4) An applicant for licensure by endorsement whose only educational deficiency under subsection 61G15-20.007(2), F.A.C., involves humanities and social sciences and who has held a valid license and practiced in another state or territory of the United States for two (2) years or more shall be deemed to have satisfied that requirement.

(5) The Board shall deem that an applicant for licensure by endorsement who has an engineering degree that is not EAC/ABET accredited has demonstrated substantial equivalency to an EAC/ABET accredited engineering program, as required by Rule 61G15-20.007, F.A.C., when such applicant has held a valid professional engineer's license in another state for 15 years and has had 20 years of continuous professional-level engineering experience.

(6) An applicant for licensure by endorsement who previously held licensure in the State of Florida and whose license became null and void because of non-renewal must meet all current requirements for initial licensure. Such applicants, if otherwise eligible, shall be subject to disciplinary sanctions as a condition of licensure if it is demonstrated that they practiced engineering during any period their license was delinquent and/or null and void.

*Rulemaking Authority 471.008, 471.013, 471.015 FS. Law Implemented 471.013, 471.015 FS. History--New 9-27-01, Amended 4-9-07, 10-15-09, 11-16-10, 9-14-14.*

<b>Notice:</b>	12550944 (61G15-20.007)
<b>Effective Date:</b>	2/4/2013
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to add new language to modify the education requirements for applicants without EAC/ABET accredited engineering degrees.
<b>Summary:</b>	The rule amendment will add new language to modify the education requirements for applicants without EAC/ABET accredited engineering degrees.
<b>Final Rule Date:</b>	2/4/2013

**61G15-20.007 Demonstration of Substantial Equivalency.**

(1) Applicants having engineering degrees from programs that are not accredited by EAC/ABET must demonstrate:

(a) 32 college credit hours of higher mathematics and basic sciences.

1. The hours of mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in probability and statistics, differential calculus, integral calculus, and differential equations are required. Additional courses may include linear algebra, numerical analysis, and advanced calculus.

2. The hours in basic sciences, must include courses in general chemistry and calculus-based general physics, with at least a two semester (or equivalent) sequence of study in either area. Additional basic sciences courses may include life sciences (biology), earth sciences (geology), and advanced chemistry or physics. Computer skills and/or programming courses cannot be used to satisfy mathematics or basic science requirements.

(b) 16 college credit hours in humanities and social sciences. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, social responsibility and no more than 6 credit hours of languages other than English or other than the applicant's native language. Courses such as accounting, industrial management, finance, personnel administration, engineering economics and military training are not acceptable. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not.

(c) 48 college credit hours of engineering science and engineering design. Courses in this area shall have their roots in mathematics and basic sciences but carry knowledge further toward creative application. Examples of approved engineering science courses are mechanics, thermodynamics, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. In order to promote breadth, at least one



engineering course outside the major disciplinary area is required.

(d) In addition, evidence of attainment of appropriate laboratory experience, competency in English, and understanding of the ethical, social, economic and safety considerations of engineering practice must be presented. As for competency in English, transcripts of course work completed, course content syllabi, testimonials from employers, college level advanced placement tests, Test of English as a Foreign Language (TOEFL) scores of at least 550 in the paper-based version, **80 on the internet-based version**, or 213 in the computer-based version, will be accepted as satisfactory evidence.

(2) The FBPE Educational Advisory Committee shall make the final decision regarding equivalency of programs and shall make recommendations to the Board as to whether an applicant shall be approved for admittance to the examination or for licensure by endorsement.

(3) The applicant with an engineering degree from a foreign institution must request an evaluation of substantial equivalency of his or her credentials to EAC/ABET standards through **either**; Center for Professional Engineering Education Services, P. O. Box 720010, Miami, Florida 33172; or Joseph Silny & Associates, Inc., P. O. Box 248233, Coral Gables, Florida 33124. The applicant with an engineering degree from a domestic engineering program not accredited by EAC/ABET must request such an evaluation from Josef Silny & Associates, Inc.

(4) Any applicant whose only educational deficiency under subsection (2) involves humanities and social sciences shall be entitled to receive conditional approval to take the Fundamentals examination. Such an applicant shall not become eligible for the Principles and Practice examination until satisfactory completion and documentation of the necessary hours in humanities and social sciences as provided in subsection (2).

*Rulemaking Authority 471.008 FS. Law Implemented 471.013, 471.015 FS. History New 7-20-95, Amended 6-5-96, 4-16-98, 1-17-99, 7-28-99, 1-6-02, 6-13-02, 6-30-02, 10-2-03, 6-16-04, 3-13-05, 5-1-05, 6-11-06, 1-29-07, 4-9-07, 1-31-08, 10-15-09.*

<b>Notice:</b>	13495530 (61G15-21.001)
<b>Effective Date:</b>	9/25/2013
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to add new language to clarify the parts of the written examination and general requirements for taking the examination.
<b>Summary:</b>	The rule amendment will add new language to clarify the parts of the written examination and general requirements for taking the examination. This updated the language to reflect the new test administered by NCEES.
<b>Final Rule Date:</b>	9/25/2013

#### **61G15-21.001 Written Examination Designated; General Requirements.**

(1) The Florida Board of Engineers hereby determines that a written examination shall be given and passed prior to any applicant receiving a license to practice as a professional engineer, or as an engineer intern in the State of Florida except as provided in Section 471.015, F.S. The examination shall be provided by the National Council of Examiners for Engineers and Surveyors (NCEES). The examination consists of two parts, **Part I, or the fundamentals examination, and Part II, or the principles and practices examination. After January**



1, 2014, the fundamentals examination will be a computer-based examination rather than written.

(a) Part ~~One~~ I of the examination provided by NCEES is the fundamentals examination, ~~and is eight (8) hours. The engineer intern examination is defined to be Part One of the written examination provided by the NCEES.~~

(b) Part ~~Two~~ II of the examination provided by NCEES for all disciplines other than structural is the principles and practice examination, ~~is eight (8) hours, and is given by discipline. The principles and practice examination for structural engineering, however, is sixteen (16) hours. Candidates are permitted to bring certain reference materials and calculators. A list of approved reference materials and calculators will be provided to all candidates prior to each examination.~~ National examination security requirements as set forth by the NCEES shall be followed throughout the administration of the examination.

(c) For Part II of the examination for structural engineering, an applicant can take either the structural component of the civil engineering exam or can take the separate structural examination which is sixteen (16) hours, consisting of an eight (8) hour vertical forces component and eight (8) hour lateral forces component.

(2) Applicants for licensure by examination must be graduates of a Board-approved engineering program as defined in Rule 61G15-20.001, F.A.C. Acceptance into the fundamentals examination, either in Florida or elsewhere, does not indicate automatic acceptance for the principles and practice examination, nor does it exempt said applicant from meeting the criteria set forth in Chapter 471, F.S. and Chapter 61G15, F.A.C.

*Rulemaking Authority 455.217(1) FS. Law Implemented 455.217(1), 471.015 FS. History—New 1-8-80, Formerly 21H-21.01, Amended 10-5-92, Formerly 21H-21.001, Amended 11-15-94, 10-14-02, 3-9-04, 2-3-05, 2-2-12, 9-25-13.*

<b>Notice:</b>	12659487 (61G15-22.001)
<b>Effective Date:</b>	3/7/2013
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to delete reference to the continuing education requirements to reactivate a license that has been inactive for more than one year.
<b>Summary:</b>	The rule amendment will delete reference to the continuing education requirements to reactivate a license that has been inactive for more than one year.
<b>Final Rule Date:</b>	3/7/2013

**61G15-22.001 Continuing Education Requirements.**

(1) Each licensee shall complete eight professional development hours during each license renewal biennium as a condition of license renewal. Four hours shall relate to the licensee’s area(s) of practice and four hours shall relate to Chapter 471, F.S., and the rules of the Board, Chapter 61G15-22, F.A.C.

(2) There shall be no carryover of hours permitted from one licensure renewal biennium to the next.

(3) ~~A license that has been inactive for more than one year may be reactivated upon application to FEMC and demonstration to the Board by the licensee of having completed twelve hours of engineering related education per inactive year, or portion thereof, in excess of one year. The education shall be related to the licensee’s area of practice. In addition, the licensee shall have completed four hours of education that shall involve the law and rules governing the practice of engineering in a course approved by the Board. Licensees who can demonstrate that they have continued the active practice of engineering during the inactive period, either through an active license to practice in another state or through practice in an exempt setting during that period, shall only be required to comply with the laws and rules requirement.~~

*Rulemaking Authority 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented*

415.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. History New 8-19-80, Formerly 21H-22.01, Amended 5-14-86, Formerly 21H-22.001, Amended 6-22-99, 6-13-00, 2-22-01, 9-16-01, 3-7-13.

<b>Notice:</b>	11875727 (61G15-22.006)
<b>Effective Date:</b>	8/20/2012
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to delete unnecessary language and to add new language to update and clarify procedures for demonstrating compliance by licensees.
<b>Summary:</b>	The rule amendment will delete unnecessary language and to add new language to update and clarify procedures for demonstrating compliance by licensees.
<b>Final Rule Date:</b>	8/20/2012

#### **61G15-22.006 Demonstrating Compliance.**

(1) In order to demonstrate compliance, licensees must attest to completion of the continuing education requirements upon licensure renewal. The Board will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met. ~~must execute a signed statement at any time during the biennium and submit said statement to the Board office at that time or by accompanying their renewal form with said statement and return it to the Board office with their renewal. For each qualifying activity listed, the following information must be included on the statement:~~

- ~~(1) Title of activity and a description.~~
- ~~(2) The date, location and provider of the activity. (3) The area of practice to which the activity applies.~~
- ~~(4) The number of PDH credits claimed for each activity.~~

(2) The licensee shall retain such receipts, vouchers, certificates, or other papers as may be necessary to document completion of the continuing education pursuant to an audit for four years from the date of completion of the continuing education activity.

In addition, the Board shall use attendance information submitted by the provider to determine whether licensees can demonstrate compliance.

Rulemaking Authority 455.213(6), 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. History New 9-16-01, Amended 7-13-04, 8-20-12.

<b>Notice:</b>	10955391 (61G15-22.007)
<b>Effective Date:</b>	2/2/2012
<b>Purpose and Effect:</b>	The Board proposes to repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Summary:</b>	The rule repeal will repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Final Rule Date:</b>	2/2/2012

**61G15-22.007 Noncompliance.**

~~In accordance with Section 471.017, F.S., completion of the required professional development hours is a condition of licensure renewal. No license will be renewed until the requirement is satisfied. If, after renewal, it is found that the licensee did not comply with these requirements, disciplinary proceedings will be initiated.~~

*Specific Authority 455.213(6), 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017, 471.019 FS. History New 9-16-01, Repealed 2-2-12.*

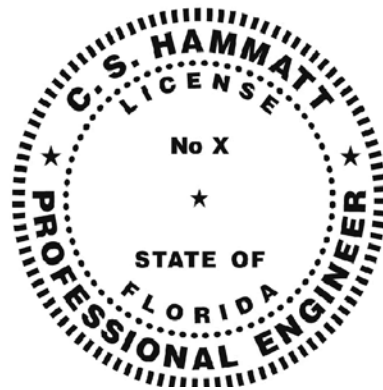
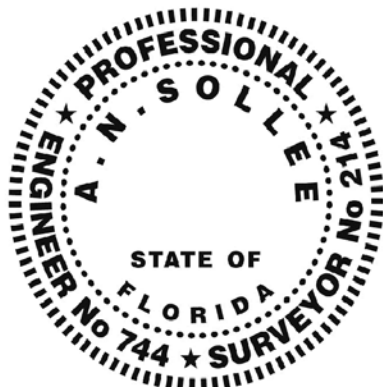
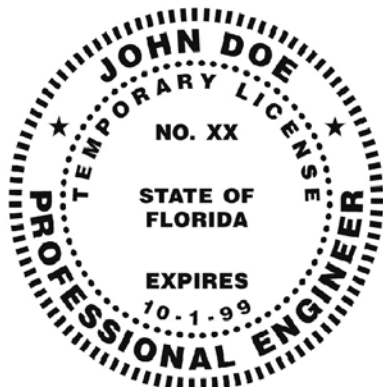
<b>Notice:</b>	10955488 (61G15-23.001)
<b>Effective Date:</b>	2/12/2012
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to modify language to clarify seals acceptable to the Board.
<b>Summary:</b>	The rule amendment will modify language to clarify seals acceptable to the Board.
<b>Final Rule Date:</b>	2/12/2012

**61G15-23.001 Seals Acceptable to the Board.**

(1) Pursuant to Section 471.025, F.S., the Board hereby establishes as indicated below the forms of seals which are acceptable to the Board.

(a) Any seal capable of leaving a permanent ink representation or other form of opaque and permanent impression which contains the information described herein is acceptable to the Board.

(b) Said seal shall be a minimum of 1 7/8 inches in diameter and shall be of a design similar to those set forth below.



(c) The type of seal in the center may be used only by registrants who are in good standing under both Chapters 471 and 472, F.S.

(d) The seal may contain an abbreviated form of the licensee’s given name or a combination of initials representing the licensee’s given name provided the surname listed with the Board appears on the seal and in the signature.

(2) Embossing impression seals ~~which otherwise comply with these provisions and~~ which do not provide an opaque and permanent impression or permanent ink representation **and computer generated seals which otherwise comply with these provisions** are also acceptable to the Board

*Rulemaking Authority 471.008, 471.025 FS. Law Implemented 471.025 FS. History New 1-8-80, Amended 6-23-80,*

*Formerly 21H-23.01, 21H-23.001, Amended 4-1-97, 2-5-04, 8-8-05, 11-16-09.*

<b>Notice:</b>	13868495 (61G15-23.003)
<b>Effective Date:</b>	12/10/2013
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to add new language to update and clarify procedures for signing and sealing electronically transmitted plans, specifications, reports or other documents.
<b>Summary:</b>	The rule amendment will add new language to update and clarify procedures for signing and sealing electronically transmitted plans, specifications, reports or other documents.
<b>Final Rule Date:</b>	12/10/2013

**61G15-23.003 Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents.**

(1) Engineering work which must be sealed under the provisions of Section 471.025, F.S., may be signed electronically or digitally as provided herein by the professional engineer in responsible charge. As

used herein, the terms digital signature and electronic signature shall have the meanings ascribed to them in Sections 668.003(3) and (4), F.S. The affixing of a digital or electronic signature to engineering work as provided herein shall constitute the sealing of such work.

(a) A scanned image of an original signature shall not be used in lieu of a digital or electronic signature.

(b) The date that the electronic signature file was created or the digital signature was placed into the document must appear on the document in the same manner as date is required to be applied when a licensee uses the manual sealing procedure set out in Rule 61G15-23.002, F.A.C.

(2) A professional engineer utilizing a digital signature to seal engineering work shall assure that the digital signature is:

(a) Unique to the person using it;

(b) Capable of verification;

(c) Under the sole control of the person using it;

(d) Linked to a document in such a manner that the electronic signature is invalidated if any data in the document are changed.

(3) A professional engineer utilizing an electronic signature to seal engineering work shall create a signature file that contains the engineer's name and PE number, a brief overall description of the engineering documents, and a list of the electronic files to be sealed. Each file in the list shall be identified by its file name utilizing relative Uniform Resource Locators (URL) syntax described in the Internet Architecture Board's Request for Comments (RFC) 1738, December 1994, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: <http://ftp.isi.edu/in-notes/rfc1738.txt>. Each file shall have an authentication code defined as an SHA-1 message digest described in Federal Information Processing Standard Publication 180-1 secure Hash Standard 1995 April 17, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: <http://www.itl.nist.gov/div897/pubs/fip180-1.htm>. The licenses shall then create a report that contains the engineer's name and PE number, a brief overall description of the engineering documents in question and the authentication code of the signature file. This report shall be printed and manually signed, dated, and sealed by the professional engineer in responsible charge. The signature file is defined as sealed if the signature file's authentication code matches the authentication code on the printed, manually signed, dated and sealed report. Each electronic file listed in a sealed signature file is defined as sealed if the listed authentication code in the signature file matches the electronic file's computed authentication code.

(4) A professional engineer signing and sealing a document in electronic form that contains multiple plan sheets or pages may apply a single digital signature as set out in Rule 61G15-23.003 subsection (2), F.A.C. or an electronic signature set forth in subsection (3). A single signature applied to a document in electronic form shall have the same force and effect as signing all of the individual sheets or pages in the set contained in said document unless otherwise limited by elements of the project for which the engineer does not intend to accept responsibility by use of qualifying language, as set out in subsection 61G15-30.003(3), F.A.C. In the case where multiple engineers of record are to sign and seal a single document file, each shall apply their digital or electronic signature and include qualifying language in said signature, or in the text of the document thoroughly describing what portions they take responsibility for.

*Rulemaking Authority 471.025(1), 668.006 FS. Law Implemented 471.025 FS. History New 8-18-98, Amended 9-4-05, 5-6-09.*

<b>Notice:</b>	11875921 (61G15-29.001)
<b>Effective Date:</b>	8/20/2012
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to modify language for certification procedures and prohibitions.
<b>Summary:</b>	The rule amendment will modify language for certification procedures and prohibitions.
<b>Final Rule Date:</b>	8/20/2012

### **61G15-29.001 Certification Definition, Procedures, Prohibitions.**

(1) The term certification as used herein shall be as set forth in Rule 61G15-18.011(4), F.A.C.

(2) When an engineer is presented with a certification to be signed, **dated, and sealed** ~~and/or sealed~~, he or she should carefully evaluate that certification to determine if any of the circumstances set forth in subsection (3) would apply. If any of these circumstances would apply, that engineer shall either: (a) modify such certification to limit its scope to those matters which the engineer can properly sign **dated, and sealed** ~~and/or sealed~~ or (b) decline to sign, **date, and seal** such certification.

(3) Engineers who sign **dated, and seal** ~~and/or sealed~~ certifications which: (a) relate to matters which are beyond the engineer's technical competence, or (b) involve matters which are beyond the engineer's scope of services actually provided, or (c) relate to matters which were not prepared under engineer's responsible supervision, direction, or control; would be subject to discipline pursuant to Rule 61G15-19.001(6), F.A.C.

*Specific Authority 471.008 FS. Law Implemented 471.025(3), 471.033(1)(j) FS. History New 1-16-91, Formerly 21H-29.001.*

<b>Notice:</b>	11875921 (61G15-30.009)
<b>Effective Date:</b>	8/26/2013
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to add new language to clarify the requirements for retention of engineering documents.
<b>Summary:</b>	The rule amendment will add new language to clarify the requirements for retention of engineering documents.
<b>Final Rule Date:</b>	8/26/2013

### **61G15-30.009 Retention of Engineering Documents.**

At least one copy of all documents displaying the licensee's signature, seal, **which is legible to the reader**, date and all related calculations shall be retained by the licensee or the licensee's employer for a minimum of three years from the date the documents were sealed. These documents shall be maintained in hardcopy or electronic format. **Rulemaking** *Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033(1)(g), (j) FS. History–New 5-9-04, Amended 11-13-08, 8-26-13.*

<b>Notice:</b>	11010972 (61G15-35.001)
<b>Effective Date:</b>	2/13/2012
<b>Purpose and Effect:</b>	The Board proposes to repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Summary:</b>	The rule repeal will repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Final Rule Date:</b>	2/13/2012

#### **61G15-35.001 General Responsibility.**

~~Professional Engineers offering Threshold Building Inspection services pursuant to Section 553.79, F.S., shall provide inspections in accordance with the structural inspection plan provided by the engineer or architect of record to insure compliance with permitted documents. In addition to inspections in accordance with the structural inspection plan, the engineer shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with shoring and reshoring plans submitted to the enforcing agency.~~

*Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.015(7), 471.033, 471.045 FS. History New 3-21-01, Amended 9-26-05, Repealed 2-13-12.*

<b>Notice:</b>	11011069 (61G15-35.002)
<b>Effective Date:</b>	2/13/2012
<b>Purpose and Effect:</b>	The Board proposes to repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Summary:</b>	The rule repeal will repeal the rule after a comprehensive review determined that the rule is no longer necessary in accordance with Executive Order 11-01, Section 5.
<b>Final Rule Date:</b>	2/13/2012

#### **61G15-35.002 Definitions.**

~~(1) Threshold Building Inspector: A registered professional engineer who meets the qualifications and standards set by this rule chapter.~~

~~(2) Authorized Representative: A representative of the Threshold Building Inspector who undertakes~~



~~inspections and site visits under the responsible charge of the Threshold Building Inspector.~~

~~(3) Structural Inspection Plan: The plan filed for public record by the engineer of record to the enforcing agency to provide specific inspection procedures and schedules.~~

~~(4) Shoring and Reshoring Plan: The plan submitted to the enforcing agency regarding the shoring and reshoring of the building.~~

*Rulemaking Authority 471.008, 471.033(2) FS. Law Implemented 471.015(7), 471.033 FS. History New 3-21-01, Repealed 2-13-12.*

<b>Notice:</b>	12551041 (61G15-35.003)
<b>Effective Date:</b>	2/4/2013
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify procedures for the qualification program for special inspectors of threshold buildings.
<b>Summary:</b>	The rule amendment will delete unnecessary language and to add new language to clarify procedures for the qualification program for special inspectors of threshold buildings.
<b>Final Rule Date:</b>	2/4/2013

**61G15-35.003 Qualification Program for Special Inspectors of Threshold Buildings.**

(1) The minimum qualifying criteria for Special Inspectors of Threshold Buildings, also referred to as Threshold Inspectors, established by the Board shall be as follows:

(a) Proof of current licensure in good standing as a licensed professional engineer in the State of Florida whose principal practice is structural engineering or whose principal practice is in performing structural field inspections on Threshold Buildings in the State of Florida.

(b) Licensed professional engineers whose principal practice is structural engineering shall also have three years of experience in performing structural field inspections on threshold buildings and two years of experience in the structural design of threshold buildings after having achieved licensure as a professional engineer. Such Experience shall be within the seven years preceeding submission of the application. For the purpose of these criteria, structural design shall mean the design of all structural components of the building and shall not be limited to specific structural components only, such as foundations, prestressed or post-tensioned concrete, etc.

(c) Licensed professional engineers whose principal practice is structural field inspections shall have five years of experience in performing structural field inspections on Threshold Buildings within the preceeding seven years prior to submission of the application and possess certification in each of the following: advanced concrete inspection, advanced structural masonry inspection, advanced post tensioning, basic structural steel and basic soils from a nationally recognized entity such as ACI, ICC, Florida Concrete and Products Association, and Post Tension Institute, Florida DOT CEQUTP or equivalent ~~Two years of experience in the structural design of threshold buildings after having achieved licensure as a professional engineer. For the purpose of these criteria, structural design shall mean the design of all structural components of the building and shall not be limited to specific structural components only, such as foundations, prestressed or post-tensioned concrete, etc.~~

~~(d) Experience in the structural inspection and/or design of at least three threshold buildings. This experience must be within the ten calendar years preceeding submission of the application.~~

(2) Applications.



(a) The instructions and application form for Special Inspector, Form FBPE/TBI/006(08/00) is hereby incorporated by reference, effective 4-19-01, special Inspector Application and Instructions. Copies of Form FBPE/TBI/006(08/00) may be obtained from the Board office or by downloading it from the internet web site [www.fbpe.org](http://www.fbpe.org).

(b) All applications for certification as a Special Inspector shall be submitted to the Board on Form FBPE/TBI/006(08/00).

(c) Applications shall contain the following basic information pertaining to the applicant:

1. Name;
2. Florida license number;
3. Educational and experience dates and sufficient description of each to clearly demonstrate that the minimum qualification criteria has been met;
4. Letters of recommendation from three registered professional engineers whose principal practice is structural engineering in the State of Florida, one of whom must be certified as a Special Inspector;
5. The signature, date and seal by the applicant attesting to the competency of the applicant to perform structural inspections on threshold buildings; and
6. Completed form FBPE/TBI/006(08/00).

(d) Upon a determination that the application contains all of the information requested by these rules, review of the application shall be scheduled for consideration by the Board. Such applications may be approved, rejected or deferred for further information by the Board. If the Board defers an application for additional information, it shall notify the applicant of the information needed. Applicants shall be notified in writing of the Board's actions as soon as practicable and, in the case of rejected applications, the Board shall set forth the reasons for such rejection.

(3) Temporary Certification. Professional engineers who have been granted temporary licensure in Florida pursuant to the provisions of Section 471.021, F.S., shall also be granted temporary certification as a Special Inspector provided the criteria set forth in these rules have been met. Such temporary certification shall be limited to work on one specific project in this state for a period not to exceed one year.

(4) Roster of Special Inspectors. The Board shall maintain a roster of all persons certified as Special Inspectors pursuant to the criteria established in these rules and the law. The roster shall be made available to interested parties upon request. The roster shall be updated on a continuing basis and additions or deletions to the latest published roster may be verified by contacting the Board office.

*Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.015(7), 471.033 FS. History New 4-19-01, Amended*

<b>Notice:</b>	12551138 (61G15-35.004)
<b>Effective Date:</b>	2/4/2013
<b>Purpose and Effect:</b>	The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify the common requirements to all engineers providing threshold building services as special inspectors.
<b>Summary:</b>	The rule amendment will delete unnecessary language and to add new language to clarify the common requirements to all engineers providing threshold building services as special inspectors.
<b>Final Rule Date:</b>	2/4/2013

**61G15-35.004 Common Requirements to All Engineers Providing Threshold Building Inspection Services as Special Inspectors.**

(1) For each Threshold Building, a notice shall be filed for public record, bearing the name, address, signature, date and seal of the Special Inspector, certifying that the Special Inspector is competent to provide the engineering services for the specific type of structure.

(2) Special Inspectors utilizing Authorized Representatives shall insure the Authorized Representative is qualified by education, **experience, and training** ~~or licensure~~ to perform the duties assigned by the Special Inspector **and shall maintain responsible supervisory control over the representative pursuant to Chapter 61G15-18.011(1) F.A.C. The Authorized Representative shall have a minimum of two (2) years of relevant experience under the direct supervision of a Special Inspector.** ~~The qualifications shall include licensure as a professional engineer or architect; graduation from an engineering education program in civil or structural engineering; graduation from an architectural education program; successful completion of the NCEES Fundamentals Examination; or licensed building inspector with the Board of Building Code Administrators, Chapter 468, F.S. or licensed general contractor under Chapter 489, F.S.~~

(3) Special Inspectors shall be in responsible charge of the work of the Authorized Representative, including reviewing reports and spot checks.

(4) Special Inspectors shall institute quality assurance procedures to include but not be limited to requiring unscheduled visits, utilization or relevant check lists, use of a Daily Inspection Report and insuring that the Special Inspector or the Authorized Representative is at the project whenever so required by the inspection plan.

*Rulemaking Authority 471.008 FS. Law Implemented 471.015(7) FS. History New 3-21-01, Amended 4-5-04, 5-6-09.*

## Section 2

### Florida Statutes - Changes to Chapters 455 and 471

*Note: Strike-through ~~text~~ indicates text deleted from statute  
High-lighted **text** indicates text added to statute*

#### Chapter 455 Revised Sections

##### Florida Statute 455.116

**Revision:** Deleted the Florida Drug, Device, and Cosmetic Trust fund from the list of trust funds placed in the department of business and professional regulation.

**Final Rule Date:** 2012 Florida Statues

**455.116 Regulation trust funds.** The following trust funds shall be placed in the department:

- (1) Administrative Trust Fund.
- (2) Alcoholic Beverage and Tobacco Trust Fund.
- (3) Cigarette Tax Collection Trust Fund.
- (4) Hotel and Restaurant Trust Fund.
- (5) Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.
- (6) Pari-mutuel Wagering Trust Fund.
- (7) Professional Regulation Trust Fund.
- (8) ~~Florida Drug, Device, and Cosmetic Trust Fund.~~

History. 8, ch. 93-220; s. 44, ch. 96-418; s. 22, ch. 2008-240; s. 1, ch. 2011-30; s. 2, ch. 2012-143.

##### *Florida Statute 455.1165*

**Revision:** *This is a new section added into chapter 455.*

**Final Rule Date:** 2012 Florida Statues

**455.1165 Federal Grants Trust Fund.**

(1) The Federal Grants Trust Fund is created within the Department of Business and Professional Regulation.

(2) The trust fund is established for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources. Moneys to be credited to the trust fund shall consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds. Funds shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216.

(3) In accordance with s. 19(f) (2), Art. III of the State Constitution, the Federal Grants Trust Fund shall, unless terminated sooner, be terminated on July 1, 2015. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

History. 1, ch. 2011-60.

## Florida Statute 455.213

**Revision:** Section 12 is added waiving certain fees for honorably discharged veterans.

**Final Rule Date:** 2012 Florida Statutes

**455.213 General licensing provisions.**

(1) Any person desiring to be licensed shall apply to the department in writing. The application for licensure shall be submitted on a form prescribed by the department

(2) provision of law, the department is the sole authority for determining the contents of any documents to be submitted for initial licensure and licensure renewal.

Such documents may contain information including, as appropriate: demographics, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, fingerprint requirements, continuing education requirements, and ongoing education monitoring. The application shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department's agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department. In cases where a

person applies or schedules directly with a national examination organization or examination vendor to take an examination required for licensure, any organization- or vendor-related fees associated with the examination may be paid directly to the organization or vendor. An application is received for purposes of s. 120.60 upon the department's receipt of the application submitted in the format prescribed by the department; the application fee set by the board or, if there is no board, set by the department; and any other fee required by law or rule to be remitted with the application.

(3) Before the issuance of any license, the department may charge an initial license fee as determined by rule of the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, except as provided in subsection (3), the department shall issue a license to any person certified by the appropriate board, or its designee, or the department when there is no board, as having met the applicable requirements imposed by law or rule. However, an applicant who is not otherwise qualified for licensure is not entitled to licensure solely based on a passing score on a required examination. Upon a determination by the department that it erroneously issued a license, or upon the revocation of a license by the applicable board, or by the department when there is no board, the licensee must surrender his or her license to the department.

(4) The board, or the department when there is no board, may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this chapter or the professional practice acts administered by the department and the boards, until such time as the investigation or prosecution is complete.

(5) When any administrative law judge conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the department, the administrative law judge shall submit his or her recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for a license may appeal the final order of the board in accordance with the provisions of chapter 120.

(6) A privilege against civil liability is hereby granted to any witness for any information furnished by the witness in any proceeding pursuant to this section, unless the witness acted in bad faith or with malice in providing such information.

(7) Any board that currently requires continuing education for renewal of a license shall adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board, or the department when there is no board, must require that any pro bono services be approved in advance in order to receive credit for continuing education under this section. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board, or the department when there is no board, that a part of the continuing education hours can be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, or the department when there is no board, may make rules to define underserved and critical need areas. The department shall adopt rules for the administration of continuing education requirements adopted by the boards or the department when there is no board.

(8) Notwithstanding anything to the contrary, any elected official who is licensed pursuant to any practice act within the purview of this chapter may hold employment

for compensation with any public agency concurrent with such public service. Such dual service shall be disclosed according to any disclosure required by applicable law.

(9) In any instance in which a licensee or applicant to the department is required to be in compliance with a particular provision by, on, or before a certain date, and if that date occurs on a Saturday, Sunday, or a legal holiday, then the licensee or applicant is deemed to be in compliance with the specific date requirement if the required action occurs on the first succeeding day which is not a Saturday, Sunday, or legal holiday.

(10) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement and use by the Department of Business and Professional Regulation, and as otherwise provided by law.

(11) For any profession requiring fingerprints as part of the registration, certification, or licensure process or for any profession requiring a criminal history record check to determine good moral character, a fingerprint card containing the fingerprints of the applicant must accompany all applications for registration, certification, or licensure. The fingerprint card shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The fingerprint card shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The information obtained by the processing of the fingerprint card by the Florida Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining if the applicant is statutorily qualified for registration, certification, or licensure.

(12) Any submission required to be in writing may otherwise be required by the department to be made by electronic means. The department is authorized to contract with private vendors, or enter into interagency agreements, to collect electronic fingerprints where fingerprints are required for registration, certification, or the licensure process or where criminal history record checks are required.

(13) The department shall waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran who applies to the department for a license, in a format prescribed by the department, within 24 months after discharge from any branch of the United States Armed Forces. To qualify for this waiver, the veteran must have been honorably discharged.

History. 5, ch. 79-36; s. 29, ch. 81-302; s. 9, ch. 83-329; s. 7, ch. 84-203; s. 30, ch. 85-175; s. 3, ch. 86-287; s. 1, ch. 89-162; s. 67, ch. 89-374; s. 1, ch. 91-137; s. 10, ch. 91-220; s. 43, ch. 92-33; ss. 13, 76, ch. 92-149; s. 23, ch. 93-129; ss. 1, 4, ch. 96-309; s. 208, ch. 96-410; s. 1078, ch. 97-103; s. 63, ch. 97-170; s. 1, ch. 97-228; s. 10, ch. 97-261; s. 53, ch. 97-278; s. 2, ch. 98-166; s. 37, ch. 98-397; s. 139, ch. 99-251; s. 26, ch. 2000-160; s. 1, ch. 2001-269; s. 9, ch. 2001-278; s. 1, ch. 2007-86; s. 1, ch. 2009-195; s. 8, ch. 2010-106; s. 2, ch. 2012-61; s. 3, ch. 2012-72

## Florida Statute 455.2179

**Revision:** The department of Business and Professional Regulation may now approve continuing education providers directly.

**Final Rule Date:** 2012 Florida Statutes

### **455.2179 Continuing education provider and course approval; cease and desist orders.**

(1) If a board, or the department if there is no board, requires completion of continuing education as a requirement for renewal of a license, the board, or the department if there is no board, shall approve the providers and courses for of the continuing education. Notwithstanding this subsection or any other provision of law, the department may approve continuing education providers or courses even if there is a board. If the department determines that an application for a continuing education provider or course requires expert review or should be denied, the department shall forward the application to the appropriate board for review and approval or denial. The approval of continuing education providers and courses must be for a specified period of time, not to exceed 4 years. An approval that does not include such a time limitation may remain in effect pursuant to the applicable practice act or the rules adopted under the applicable practice act. Notwithstanding this subsection or any other provision of law, only the department may determine the contents of any documents submitted for approval of a continuing education provider or course.

(2) The board, or the department if there is no board, shall issue an order requiring a person or entity to cease and desist from offering any continuing education programs for licensees, and fining, suspending, or revoking any approval of the provider previously granted by the board, or the department if there is no board, if the board, or the department if there is no board, determines that the person or entity failed to provide appropriate continuing education services that conform to approved course material. Such fine may not exceed \$500 per violation. Investigations and prosecutions of a provider's failure to comply with its duties under this section shall be conducted under s. 455.225.

(3) Each board authorized to approve continuing education providers, or the department if there is no board, may establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses and may establish, by rule, a biennial fee not to exceed \$250 for the renewal of providership of such courses. The Florida Real Estate Commission, authorized under the provisions of chapter 475 to approve prelicensure, precertification, and postlicensure education providers, may establish, by rule, an application fee not to exceed \$250 for anyone seeking approval to offer prelicensure, precertification, or postlicensure education courses and may establish, by rule, a biennial fee not to exceed \$250 for the renewal of such courses. Such postlicensure education courses are subject to the reporting, monitoring, and compliance provisions of this section and ss. 455.2177 and 455.2178.

(4) The department and each affected board may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

History. 159, ch. 99-251; s. 7, ch. 2000-356; s. 4, ch. 2004-292; s. 4, ch. 2012-72.



## Florida Statute 455.271

**Revision:** A time restraint limiting when an active licensee may change his or her status to inactive has been removed. In addition the Department of Business and Professional Regulation at its discretion may reinstate a licensee's voided license if illness or economic hardship is determined to be the cause of the voided license. All fees and continuing education requirements must still be met by the licensee.

**Final Rule Date:** 2012 Florida Statutes

### **455.271 Inactive and delinquent status**

(1) A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession without an active status license is in violation of this section and s. 455.227, and the board, or the department when there is no board, may impose discipline on the licensee.

(2) Each board, or the department when there is no board, shall permit a licensee to choose, at the time of licensure renewal, an active or inactive status. ~~However, a licensee who changes from inactive to active status is not eligible to return to inactive status until the licensee thereafter completes a licensure cycle on active status.~~

(3) Each board, or the department when there is no board, shall, by rule, impose a fee for an inactive status license which is no greater than the fee for an active status license.

(4) An inactive status licensee may change to active status at any time, provided the licensee meets all requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees as set by the board, or the department when there is no board, and meets all continuing education requirements as specified in this section.

(5) A licensee shall apply with a complete application, as defined by rule of the board, or the department when there is no board, to renew an active or inactive status license before the license expires. Failure of a licensee to renew before the license expires shall cause the license to become delinquent in the license cycle following expiration.

(6)(a) A delinquent status licensee must affirmatively apply with a complete application, as defined by rule of the board, or the department if there is no board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license void without any further action by the board or the department.

(b) Notwithstanding the provisions of the professional practice acts administered by the department, ~~the board, or the department if there is no board,~~ may, at its discretion, reinstate the license of an individual whose license has become void if the ~~board or department, as applicable,~~ determines that the individual ~~has made a good faith effort to comply with this section but has failed to comply because of illness or unusual~~ economic hardship. The individual must apply to the board, or the department if there is no board, for reinstatement in a manner prescribed by rules of the board or the department, as applicable, and shall pay an applicable fee in an amount determined by rule. ~~The board, or the department if there is no board,~~ shall



require that such individual meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

This subsection does not apply to individuals subject to regulation under chapter 473.

(7) Each board, or the department when there is no board, shall, by rule, impose an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, on a delinquent status licensee when such licensee applies for active or inactive status.

(8) Each board, or the department when there is no board, shall, by rule, impose an additional fee, not to exceed the biennial renewal fee for an active status license, for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle.

(9) Each board, or the department when there is no board, may, by rule, impose reasonable conditions, excluding full reexamination but including part of a national examination or a special purpose examination to assess current competency, necessary to ensure that a licensee who has been on inactive status for more than two consecutive biennial licensure cycles and who applies for active status can practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Reactivation requirements may differ depending on the length of time licensees are inactive. The costs to meet reactivation requirements shall be borne by licensees requesting reactivation.

(10) The board, or the department if there is no board, may not require an inactive or delinquent licensee, except for a licensee under chapter 473 or chapter 475, to complete more than one renewal cycle of continuing education to reactivate a license.

(11) The status or a change in status of a licensee shall not alter in any way the board's, or the department's when there is no board, right to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent.

(12) This section does not apply to a business establishment registered, permitted, or licensed by the department to do business or to a person licensed, permitted, registered, or certified pursuant to chapter 310 or chapter 475.

History. 14, ch. 94-119; s. 1, ch. 2005-249; s. 2, ch. 2009-54; s. 3, ch. 2012-61; s. 5, ch. 2012-72; s. 8, ch. 2012-208.

## Florida Statute 455.273

**Revision:** Repetitive language is deleted and minor adjustments are made to the test regarding email addresses as a means of contact.

**Final Rule Date:** 2012 Florida Statutes

**455.273 Renewal and cancellation notices.** At least 90 days before the end of a licensure cycle, the department of Business and Professional Regulation shall:

(1) Forward a licensure renewal notification to an active or inactive licensee at the licensee's last known address of record **or e-mail address provided to** with the department.

(2) Forward a notice of pending cancellation of licensure to a delinquent status licensee at the licensee's last known address of record **or e-mail address provided to** with the department.

History. 15, ch. 94-119; s. 6, ch. 2012-72.

~~(2) Each Licensure renewal notification and each notice of pending cancellation of licensure must state conspicuously that a licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements, as defined by rule of the board or the department when there is no board.~~

## Florida Statute 455.275

**Revision:** Minor changes regarding communication from the Department of Business and Professional Regulation.

**Final Rule Date:** 2012 Florida Statutes

### **455.275 Address of record.**

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address, **e-mail address**, and place of practice, as defined by rule of the board or the department when there is no board. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department when there is no board.

(2) Notwithstanding any other provision of law, service by regular mail **or e-mail** to a licensee's last known mailing address **or e-mail address** of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required pursuant to s. 455.225.

(3)(a) Notwithstanding any provision of law, when an administrative complaint is served on a licensee of the department, the department shall provide service by regular mail to the licensee's last known address of record, by certified mail to the last known address of record, and, if possible, by e-mail.

<sup>1</sup>(b) If service, as provided in paragraph (a), does not provide the department with proof of service, the department shall call the last known telephone number of record and cause a short, plain notice to the licensee to be **posted on the front page of the**

department's website and shall send notice via e-mail to all newspapers of general circulation and all news departments of broadcast network affiliates in the county of the licensee's last known address of record. ~~Published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address of record. If a newspaper is not published in the county, the administrative complaint may be published in a newspaper of general circulation in the county. If the licensee's last known address is located in another state or in a foreign jurisdiction, the administrative complaint may be published in Leon County pursuant to s. 120.60(5).~~

History. 16, ch. 94-119; s. 14, ch. 2010-106; s. 7, ch. 2012-72; s. 15, ch. 2012-212.

# Chapter 471 Revised Sections

## Florida Statute 471.013

**Revision:** Minor changes regarding applicants who fail examination three times

**Final Rule Date:** 2014 Florida Statutes

### 471.013 Examinations; prerequisites.—

(1)(a) A person shall be entitled to take an examination for the purpose of determining whether she or he is qualified to practice in this state as an engineer if the person is of good moral character and:

1. Is a graduate from an approved engineering curriculum of 4 years or more in a school, college, or university which has been approved by the board and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering;
2. Is a graduate of an approved engineering technology curriculum of 4 years or more in a school, college, or university within the State University System, having been enrolled or having graduated prior to July 1, 1979, and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; or
3. Has, in lieu of such education and experience requirements, 10 years or more of active engineering work of a character indicating that the applicant is competent to be placed in responsible charge of engineering. However, this subparagraph does not apply unless such person notifies the department before July 1, 1984, that she or he was engaged in such work on July 1, 1981.

The board shall adopt rules providing for the review and approval of schools or colleges and the courses of study in engineering in such schools and colleges. The rules shall be based on the educational requirements for engineering as defined in s. 471.005. The board may adopt rules providing for the acceptance of the approval and accreditation of schools and courses of study by a nationally accepted accreditation organization.

(b) A person shall be entitled to take the fundamentals examination for the purpose of

determining whether she or he is qualified to practice in this state as an engineer intern if she or he is in the final year of, or is a graduate of, an approved engineering curriculum in a school, college, or university approved by the board.

(c) A person shall not be entitled to take the principles and practice examination until that person has successfully completed the fundamentals examination.

(d) The board shall deem that an applicant who seeks licensure by examination has passed the fundamentals examination when such applicant has received a doctorate degree in engineering from an institution that has an undergraduate engineering program that is accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, Inc., and has taught engineering full time for at least 3 years, at the baccalaureate level or higher, after receiving that degree.

(e) Every applicant who is qualified to take the fundamentals examination or the principles and practice examination shall be allowed to take either examination three times, notwithstanding the number of times either examination has been previously failed. If an applicant fails either examination three times, the board shall require the applicant to complete additional college-level education courses or a board-approved relevant examination review course as a condition of future eligibility to take that examination. If the applicant is delayed in taking the examination due to reserve or active duty service in the United States Armed Forces or National Guard, the applicant is allowed an additional two attempts to take the examination before the board may require additional college-level education or review courses.

(2)(a) The board may refuse to certify an applicant for failure to satisfy the requirement of good moral character only if:

1. There is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensed engineer; and
2. The finding by the board of lack of good moral character is supported by clear and convincing evidence.

(b) When an applicant is found to be unqualified for a license because of a lack of good moral character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal. **History.**—ss. 5, 42, ch. 79-243; s. 340, ch. 81-259; ss. 7, 10, ch. 81-302; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 89-30; s. 4, ch. 91-429; s. 141, ch. 92-149; s. 332, ch. 97-103; s. 20, ch. 2002-299; s. 1, ch. 2003-293; s. 2, ch. 2004-332; s. 2, ch. 2014-125.

## Florida Statute 471.015

<b>Revision:</b>	Minor changes regarding applicants who seek licensure by endorsement
<b>Final Rule Date:</b>	2014 Florida Statutes

### 71.015 Licensure.—

(1) The management corporation shall issue a license to any applicant who the board certifies is qualified to practice engineering and who has passed the fundamentals examination and the principles and practice examination.

(2) The board shall certify for licensure any applicant who satisfies the requirements of s. 471.013. The board may refuse to certify any applicant who has violated any of the provisions of s. 471.031.

(3) The board shall certify as qualified for a license by endorsement an applicant who:

(a) Qualifies to take the fundamentals examination and the principles and practice examination as set forth in s. 471.013, has passed a United States national, regional, state, or territorial licensing examination that is substantially equivalent to the fundamentals examination and principles and practice examination required by s. 471.013, and has satisfied the experience requirements set forth in s. 471.013; or

(b) Holds a valid license to practice engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in this state at the time the license was issued.

(4) The management corporation shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of this chapter or of chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

(5)(a) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 15 years and has had 20 years of continuous professional-level engineering experience.

~~1. Has held a valid professional engineer's license in another state for 15 years and has had 20 years of continuous professional level engineering experience;~~

~~2. Has received a doctorate degree in engineering from an institution that has an undergraduate engineering degree program which is accredited by the Accreditation Board for Engineering Technology; or~~

~~3. Has received a doctorate degree in engineering and has taught engineering full time for at least 3 years, at the baccalaureate level or higher, after receiving that degree.~~

(b) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination and the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 25 years and has had 30 years of continuous professional-level engineering experience.

(6) The board may require a personal appearance by any applicant for licensure under this chapter. Any applicant of whom a personal appearance is required must be given adequate notice of the time and place of the appearance and provided with a statement of the purpose of and reasons requiring the appearance.

(7) The board shall, by rule, establish qualifications for certification of licensees as special inspectors of threshold buildings, as defined in ss. 553.71 and 553.79, and shall compile a list of persons who are certified. A special inspector is not required to meet standards for certification other than those established by the board, and the fee owner of a threshold building may not be prohibited from selecting any person certified by the board to be a special inspector. The board shall develop minimum qualifications for the qualified representative of the special inspector who is authorized to perform inspections of threshold buildings on behalf of the special inspector under s. 553.79.

**History.**—ss. 6, 42, ch. 79-243; ss. 2, 3, ch. 81-318; s. 2, ch. 85-134; ss. 14, 15, ch. 89-30; s. 4, ch. 91-429; ss. 82, 216, ch. 94-119; s. 32, ch. 95-392; s. 110, ch. 98-166; s. 37, ch. 2000-141; s. 171, ch. 2000-160; s. 35, ch. 2000-356; s. 6, ch. 2000-372; s. 21, ch. 2002-299; s. 2, ch. 2003-293; s. 3, ch. 2014-125.

## Florida Statute 471.013

**Revision:** Minor changes with addition of an exception

**Final Rule Date:** 2013 Florida Statutes

### 471.023 Certification of business organizations.—

(1) The practice of, or the offer to practice, engineering by licensees or offering engineering services to the public through a business organization, including a partnership, corporation, business trust, or other legal entity or by a business organization, including a corporation, partnership, business trust, or other legal entity offering such services to the public through licensees under this chapter as agents, employees, officers, or partners is permitted only if the business organization possesses a certification issued by the management corporation pursuant to qualification by the board, subject to the provisions of this chapter. One or more of the principal officers of the business organization or one or more partners of the partnership and all personnel of the business organization who act in its behalf as engineers in this state shall be licensed as provided by this chapter. All final drawings, specifications, plans, reports, or documents involving practices licensed under this chapter which are prepared or approved for the use of the business organization or for public record within the state shall be dated and shall bear the signature and seal of the licensee who prepared or approved them. Nothing in this section shall be construed to mean that a license to practice engineering shall be held by a business organization. Nothing herein prohibits business organizations from joining together to offer engineering services to the public, if each business organization otherwise meets the requirements of this section. No business organization shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing engineering be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a business organization.

(2) For the purposes of this section, a certificate of authorization shall be required for any business organization or other person practicing under a fictitious name, offering engineering services to the public. However, when an individual is practicing engineering in his or her own given name, he or she shall not be required to be licensed under this section.

(3) **Except as provided in s. 558.0035**, the fact that a licensed engineer practices through a business organization does not relieve the licensee from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Partnerships and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their



agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the business organization. The personal liability of a shareholder or owner of a business organization, in his or her capacity as shareholder or owner, shall be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.

(4) Each certification of authorization shall be renewed every 2 years. Each business organization certified under this section must notify the board within 1 month after any change in the information contained in the application upon which the certification is based.

(5) Disciplinary action against a business organization shall be administered in the same manner and on the same grounds as disciplinary action against a licensed engineer.

**History.**—ss. 11, 42, ch. 79-243; s. 1, ch. 80-223; ss. 2, 3, ch. 81-318; ss. 8, 14, 15, ch. 89-30; s. 4, ch. 91-429; s. 143, ch. 92-149; s. 333, ch. 97-103; s. 39, ch. 2000-356; s. 9, ch. 2000-372; s. 25, ch. 2002-299; s. 3, ch. 2003-293; s. 3, ch. 2013-28.

## Section 3

### Case Law Concerning Chapters 455 and 471

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT JANUARY TERM 2007

ROBERT C. KANY, P.E.,  
Appellant,

v.

Case No. 5D06-2267

FLORIDA ENGINEERS MANAGEMENT  
CORPORATION,  
Appellee.

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Opinion filed February 16, 2007

Administrative Appeal from the  
Board of Professional Engineers.

Douglas W. Ackerman, and  
Daniel M. Greene, of Kirwin  
Norris, P.A., Winter Park, for Appellant.

John J. Rimes, III, and Bruce A. Campbell,  
Tallahassee, for Appellee.

GRIFFIN, J.

Robert C. Kany, P.E. ["Kany"], appeals the Florida Board of Professional Engineers' ["Board"] order revoking his license to practice engineering. Revocation was grounded on a determination that Kany had violated section 471.033(1)(j), Florida Statutes, by affixing or permitting to be affixed his seal, name, or signature to final drawings that were not prepared by him or under his responsible supervision, direction, or control and section 471.033(1)(a), Florida Statutes, by aiding and assisting an unlicensed person to practice engineering and for professional negligence.

The operative facts were essentially undisputed. Robert Thomas ["Thomas"], a draftsman, operated a business pursuant to which he contracted with homeowners to draft

plans to improve two existing residential properties, one located on 8245 Curry Ford Road and the other at 2008 Corena Drive. Both projects included some engineering. Thomas is not a licensed engineer, however, so he brought the drawings he had prepared to Kany, a licensed professional engineer since 1940. Kany reviewed Thomas' drawings, made comments and corrections, and checked to make sure that the plans complied with code. He then signed and sealed the Curry Ford plans on about February 12, 2004, and signed and sealed the Corena Drive plans sometime between April 26, 2002 and July 8, 2003. This is the conduct that is the crux of this appeal. The Board contends that this conduct warrants revocation of his engineering license because the plans he sealed were not prepared under Kany's "responsible supervision, direction or control."

This matter was heard by the Division of Administrative Hearings on January 13, 2006. Each side presented witnesses. Based on the evidence presented at this hearing, the Administrative Law Judge ["ALJ"] issued a recommended order that included the following findings:

11. While one small deficiency exists to the structural design of Joint Exhibit 1, "Renovations to Existing Facilities 8245 Curry Ford Road, Orlando," there was no threat to public safety.
12. There are myriad structural engineering deficiencies in Joint Exhibit 2, "2008 Corena Drive," which are the sealed plans for the residence at that address. The deficiencies may be the result of the fact that the plans were incomplete due to the owners' failure to decide on a cathedral or closed ceiling. If the plans were preliminary, [Kany] should not have sealed them.
13. The plans depicted in Joint Exhibit 2, "2008 Corena Drive," do not meet minimum engineering standards; the engineer of record, Respondent, was negligent in sealing these plans.

The ALJ concluded that the Florida Engineers Management Corporation ["FEMC"] had proven only count six of its complaint, which was that Kany had been negligent in sealing the Corena Drive plans. In rejecting the other counts, the ALJ wrote:

14. It is acceptable practice in the engineering community for an engineer to work with a designer who drafts design documents and is independently employed. It is also acceptable practice in the engineering community for an engineer working with a designing draftsman not to visit a particular project site if sufficient detail of the project is related to the engineer by the draftsman.

15. It is acceptable practice in the engineering community for a draftsman to design complete drawings and then present the drawings to an engineer for engineering review and approval as long as the draftsman is known to the engineer and the engineer is aware of the draftsman's skill and expertise.

16. Respondent has practiced his profession for 65 years, the last 25 in Florida. He has known Robert Thomas, the individual who drafted both sets of plans in question, for seven or eight years. Respondent considers Mr. Thomas to be a "darn good" draftsman with considerable knowledge of the building industry. When Mr. Thomas brings plans to Respondent for review, they discuss the project and the plans; Respondent then makes appropriate changes to assure that the plans comply with or exceed code. This process meets the "responsible charge" standard.

\* \* \*

28. Petitioner has failed to prove by clear and convincing evidence the remaining counts of the Administrative Complaint. The evidence presented indicates that Respondent exercised "responsible charge" over Robert Thomas; although Mr. Thomas actually met with his clients and drafted the plans, Respondent had ultimate control over engineering decisions after discussion of the particular project and consideration of plan alternatives. Respondent

was familiar with Mr. Thomas' qualifications.

29. There is no evidence that supports the allegation that Respondent aided or assisted Mr. Thomas in the unlicensed practice of engineering.

Given the absence of aggravating circumstances, the ALJ recommended that Kany only receive a reprimand for his negligence on the Corena Drive project.

In response to the proposed order, the parties filed their exceptions with the Florida Board of Professional Engineers. The FEMC asked the Board to accept five substantial exceptions to the ALJ's proposed order. The essential purpose of these exceptions was to undo the ALJ's findings in paragraphs 16 and 28 that Kany exercised "responsible charge" over the work of Robert Thomas.

The Florida Board of Engineers met to discuss the proposed order and exceptions, accepted the five exceptions requested by the FEMC, and made the decision to permanently revoke Kany's license. All other findings of fact and conclusions of law included in the recommended order were incorporated into the final order. The decisions taken at this meeting were reflected in the final order issued by the Board on June 26, 2006.

At the administrative hearing, several witnesses testified as to the proper relationship between a draftsman and the engineer of record. Syed Ashraf, a professional engineer called by FEMC to give expert testimony, agreed that the engineer of record does not need to do structural calculations or drawings and, while the engineer has to directly supervise the work of a draftsman, it is not necessary for the draftsman to be employed by the engineer's company. In his opinion, however, the engineer has to make all design decisions from the beginning.

Professional Engineer Darius Adams ["Adams"] agreed that the employment relationship between the drafter and the engineer is irrelevant; rather, what matters is whether the engineer is familiar with the work of the drafter and can trust the drafter's work. When asked about whether an engineer's ratification of plans drawn by a nonengineer could constitute "responsible charge," Adams said:

Plans have to be presented in some form. At that point that's when the engineer of record – at some point he has to start looking at the plans, whether they are three lines on the drawings or a full set of drawings . . . They are not

completed until the engineer has reviewed them and has made his engineering directions.

Adams indicated that if a designer came to him with a set of plans, it would be appropriate for him to "review, analyze and sign and seal as an engineer," if he knew the person. Adams also testified that it was common for engineers not to make site visits, and that it was not necessary for an engineer to make such visits if information is given to the engineer.

Kany testified that the decisions about what the plan contains are made by the drafter but then are reviewed by him and corrected or changed to "comply with code or make it better." "Frequently, they are discussed where the nature of the plan could be changed because it's not economical or not feasible."

The Board primarily rests its decision that Kany violated section 471.033(1)(j) on its interpretation of its Rule 61G15-18.011(1), Florida Administrative Code, which we reproduce at length because we cannot find the Board's interpretation of it in the literal language of the Rule.

(1) "Responsible Charge" shall mean that degree of control an engineer is required to maintain over engineering decisions made personally or by others over which the engineer exercises supervisory direction and control authority. The engineer in responsible charge is the Engineer of Record as defined in subsection 61G15-30.002(1), F.A.C.

(a) The degree of control necessary for the Engineer of Record shall be such that the engineer:

1. Personally makes engineering decisions or reviews and approves proposed decisions prior to their implementation, including the consideration of alternatives, whenever engineering decisions which could affect the health, safety and welfare of the public are made. In making said engineering decisions, the engineer shall be physically present or, if not physically present, be available in a reasonable period of time, through the use of communication

devices, such as electronic mail, videoconferencing, teleconferencing, computer networking, or via facsimile transmission.

2. Judges the validity and applicability of recommendations prior to their incorporation into the work, including the qualifications of those making the recommendations.

(b) Engineering decisions which must be made by and are the responsibility of the Engineer of Record are those decisions concerning permanent or temporary work which could create a danger to the health, safety, and welfare of the public, such as, but not limited to, the following:

1. The selection of engineering alternatives to be investigated and the comparison of alternatives for engineering works.

2. The selection or development of design standards or methods, and materials to be used.

3. The selection or development of techniques or methods of testing to be used in evaluating materials or completed works, either new or existing.

4. The development and control of operating and maintenance procedures.

(c) As a test to evaluate whether an engineer is the Engineer of Record, the following shall be considered:

1. The engineer shall be capable of answering questions relevant to the engineering decisions made during the engineer's work on the project, in sufficient detail as to leave little doubt as to the engineer's proficiency for the work performed and involvement in said work. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the engineer in responsible charge made

them and possessed sufficient knowledge of the project to make them. Examples of questions to be answered by the engineer could relate to criteria for design, applicable codes and standards, methods of analysis, selection of materials and systems, economics of alternate solutions, and environmental considerations.

\* \* \*

2. The engineer shall be completely in charge of, and satisfied with, the engineering aspects of the project.
3. The engineer shall have the ability to review design work at any time during the development of the project and shall be available to exercise judgment in reviewing these documents.
4. The engineer shall have personal knowledge of the technical abilities of the technical personnel doing the work and be satisfied that these capabilities are sufficient for the performance of the work.

Fla. Admin. Code R. 61G15-18.011(1). In its final order, the Board rejected the hearing officer's interpretation of Rule 61G15-18.011(1), and said:

Rule 61G15-18.011(1)(a) requires an engineer in responsible charge must initiate concepts; weigh and investigate alternatives; select development, design standards and methods and the materials to be used. There is no evidence in the record that Respondent ever had an opportunity to undertake those engineering tasks because he was presented with a set of drawings to be checked and stamped. This legal conclusion is more reasonable than the legal conclusion set forth in paragraph 28 of the Recommended Order

The Board apparently finds somewhere in this language what is not expressly stated -- that any engineer who seals plans containing a design that he did not initiate is guilty of



misconduct. Unfortunately, in its brief on appeal, the Board never explains where in the Rule it finds its interpretation, other than a general reference to the definition of "responsible charge" found in subsection (1). If the Board concludes that these duties they advance in this appeal are important to the profession, they should draft a rule that clearly defines and explains these duties, so that engineers will know what is expected of them and what conduct is subject to discipline.

It bears repeating that: "It is the hearing officer's function to consider all the evidence presented, resolve conflicts, judge credibility of witnesses, draw permissible inferences from the evidence, and reach ultimate findings of fact based on competent, substantial evidence." *Heifetz v. Dep't of Bus. Reg.*, 475 So. 2d 1277, 1281 (Fla. 1<sup>st</sup> DCA 1985). "While an agency may reject conclusions of law without limitation, neither an administrative agency nor a reviewing court may reject an administrative hearing officer's findings of fact, as long as those findings are supported by competent, substantial evidence in the record." *Sheils v. Florida Eng'rs Mgmt. Corp.*, 886 So. 2d 426 (Fla. 4th DCA 2004)(citing *Szniatkiewicz v. Unemployment Appeals Comm'n*, 864 So. 2d 498, 502 (Fla. 4th DCA 2004)).

Whether the engineer in any case made the engineering decisions contained in the sealed plan is a question of fact. The FEMC had the burden of proving their charge against Kany by clear and convincing evidence. *See Department of Banking and Fin. v. Osborne Stern & Co.*, 670 So. 2d 932 (Fla. 1996). Under the "clear and convincing" standard "[t]he evidence must be credible; the memories of the witnesses must be clear and without confusion; and the sum total of the evidence must be of sufficient weight to convince the trier of fact without hesitancy." *In re Davey*, 645 So. 2d 398, 404 (Fla. 1994).

Although it is generally held that an agency has wide discretion in interpreting a statute it administers, this discretion is somewhat more limited where the statute being interpreted authorizes sanctions or penalties against a person's professional license. Statutes providing for the revocation or suspension of a license to practice are deemed penal in nature and must be strictly construed, with any ambiguity interpreted in favor of the licensee. *Elmariah v. Dep't of Prof'l Reg.*, 574 So. 2d 164, 165 (Fla. 1st DCA 1990).

The Board concedes that the ultimate question in this case is factual – were the engineering decisions made by Kany, or not? In arriving at its final order, which is completely contrary to the recommended order of the ALJ on the "responsible supervision, direction or control" issue, the Board has engaged in gymnastic parsing and dissection of the

ALJ's findings of fact. At bottom, however, their position is that, as a matter of law, the ALJ could not make what they consider to be the indispensable finding that, from the outset, Kany initiated the engineering concepts, decided what would be put into the plan and participated in the preparation of the plans.

No matter how carefully we pore over the Board's Rule 61G15-18.011(1), we cannot find the twin requirements of initiation and drafting to be inherent in the Rule's language. Indeed, subsection (1), defining "responsible charge" includes: "that degree of control an engineer is required to maintain over engineering decisions made personally *or by others over which the engineer exercises supervisory direction and control authority.*" Subsection (a) also says: "the degree of control necessary for the engineer of record shall be such that the engineer: (1) personally makes engineering decisions or *reviews and approves proposed decisions* prior to their implementation . . . ." (Emphasis supplied). In fact, the language of the Rule appears to lean in the opposite direction, toward the engineer's responsibility for what goes into the *final* plan because the final plan is the one that will be built from and thus will have the potential to pose a danger to the public. Whether the engineer exercised control over the decisions that went into creating initial or intermediate drafts of plans matters less under the Rule because those plans will not be built from. Nothing express in section 471.033(1)(a) or in Rule 61G15-18.011(1) precludes an engineer from exercising the requisite supervisory direction or control authority over engineering drawings prepared by others. If the engineer merely takes a fee to "stamp plans," i.e. 11 affix his seal without verifying that the engineering is correct, he is in violation and this practice is properly condemned.

Recently, in *Puig v. Florida Engineers Management Corp.*, 939 So. 2d 1146, 1147 (Fla. 3d DCA 2006), the Third District considered a case quite similar to the one presented here. Jose Puig, a licensed engineer, sealed plans to two projects that an unlicensed person had contracted to undertake. *Id.* As in this case, the FEMC charged Puig with violating "sections 471.033(1)(a) & (j) and 455.227(1)(a) & (j), Florida Statutes (2004), which prohibits sealing plans not prepared by, or under the supervision of, the engineer and assisting an unlicensed person in the practice of engineering." *Id.*

At the evidentiary hearing, Puig affirmed that he reviewed the work done prior to his involvement, directed and instructed the unlicensed person and his employees in drafting work, and oversaw completion of the design work before finally affixing his signature and

seal to the plans. The ALJ concluded that Puig established through his testimony that the plans he had signed and sealed were prepared under his “responsible supervision, direction, and control.” *Id.*

As in *Puig*, we conclude that there was evidence presented from which the ALJ could have arrived at the findings and conclusions contained in his recommended order, and that it was error to reject those findings and conclusions. We reverse and remand with instructions that the administrative law judge's recommended order be approved.

REVERSED and REMANDED.

PALMER and EVANDER, JJ., concur.

## Section 4

### **Disciplinary Cases Review**

Wendy Bruseski, PE

PE 53983

Case No. 2012052732 & 2013028825

Licensee was charged in both cases with negligence in the practice of engineering, a violation of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Florida Administrative Code. In case number 2012052732, Licensee signed, sealed and dated engineering design documents for an aluminum screen enclosure. The documents were materially deficient in that the roof framing beam element was overstressed, the non-flow-thru wall post element was overstressed, the cable brace connection details were deficient, failure to set forth or define the mansard rise dimension, etc. In case number 2013028825, Licensee signed, sealed and dated engineering design documents for an aluminum screen enclosure. The documents were materially deficient in that the allowable stress for the roof beam element was grossly exceeded at required loading, the allowable stress for the side wall post element of the structure was exceeded, failure to make a project specific analysis of the existing trusses to determine their capacity or maximum allowable overhang, structural details fail to set forth the length of the receiving channels supporting the roof beam element, etc.

**Ruling:** Pursuant to Settlement Stipulation, Licensee shall place her license on "Inactive Status." Licensee may reapply for reactivation of her license as a professional engineer after fulfilling the following: (1) Fine of \$3,000; (2) Costs of \$11,542.25; (3) Appearance before the Board to discuss how the situation occurred, what improvements and quality control measures she plans to implement to improve her work product, and how she intends to prevent the circumstances from occurring in the future along with Licensee's activities during the license inactivity, (4) A Board-approved course in Screen

Enclosure Design, a Board-approved course in Advanced Engineering Professionalism and Ethics; (5) Study Guide. After reactivation, Licensee will be placed on two years' Probation which includes Project Review at six and eighteen months. A Final Order was issued on 4/15/14.

**Violation:** Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), Florida Administrative Code.

### Violation Reference

<b>471.033(g):</b>	Engaging in fraud or deceit, negligence, incompetence, or misconduct, in the practice of engineering.
<b>61G15-19.001(4):</b>	<p>A professional engineer shall not be negligent in the practice of engineering. The term negligence set forth in Section 471.033(1)(g), F.S., is herein defined as the failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principles. Professional engineers shall approve and seal only those documents that conform to acceptable engineering standards and safeguard the life, health, property and welfare of the public.</p> <p>Failure to comply with the procedures set forth in the Responsibility Rules as adopted by the Board of Professional Engineers shall be considered as non-compliance with this section unless the deviation or departures therefrom are justified by the specific circumstances of the project in question and the sound professional judgment of the professional engineer.</p> <p>in Section 471.033(1)(g), F.S., is herein defined as the failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principles. Professional engineers shall approve and seal only those documents that conform to acceptable engineering standards and safeguard the life, health, property and welfare of the public.</p> <p>Failure to comply with the procedures set forth in the Responsibility Rules as adopted by the Board of Professional Engineers shall be considered as non-compliance with this section unless the deviation or departures therefrom are justified by the specific circumstances of the project in question and the sound professional judgment of the professional engineer.</p>

Stephen Maslan, PE

PE 38400

Case No. 2013026181

Licensee was charged with negligence in the practice of engineering, a violation of Section 471.033(1)(c), Florida Statutes. Licensee was the subject of a Final Order entered by the Kansas State Board of Technical Professions. The State of Kansas charged Mr. Maslan with gross negligence, incompetency, misconduct, or wanton disregard for the rights of others. Section 471.033(1)(g), Florida Statutes, provides that an engineer is subject to discipline for engaging in negligence in the practice of engineering. Rule 61G15- 19.001(4), Florida Administrative Code provides that negligence constitutes failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard to acceptable standards of engineering principles.

**Ruling:** This case was presented to the full Board for review with an initial Settlement Stipulation; the Board rejected the initial Settlement Stipulation and authorized a Counter Settlement Stipulation which was agreed to by the Licensee. (Continued on page 13) Pursuant to the Counter Settlement Stipulation, the Board imposed Costs of \$1,126.50, a Reprimand, RESTRICTION from practicing any Fire Protection engineering until such time that the Licensee completes, passes and submits proof of passing the NCEES Fire Protection Exam; two years' Probation with terms which includes completion of the Study Guide, and a Board-approved course in Engineering Professionalism and Ethics, and Project Review at six and eighteen month intervals. A Final Order was issued on 4/29/14.

**Violation:** Section 471.033(1)(c), Florida Statutes

### Violation Reference

**471.033(1)(c):**

Having a license to practice engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for any act that would constitute a violation of this chapter or chapter 455.

Randall Mosby, PE

PE 22326

Case No. 2011028047

Licensee was charged with failing to report any of the criminal dispositions made against him to the Board, a violation of Section 471.033(1)(a), Florida Statutes, by violating Section 455.227(1)(t), Florida Statutes. Licensee was found guilty of several criminal charges and failed to report any of those convictions to the Board as required.

**Ruling:** A Final Order was issued against Mr. Mosby on June 25, 2013, adopting a Settlement Stipulation which indefinitely SUSPENDED the Licensee's professional engineer license until such time as the Licensee could demonstrate that he could practice with reasonable skill and safety. An Order on Reinstatement was issued on September 13, 2013. The Order Reinstated Licensee's professional engineering license with the following terms: two years' Probation with terms which include Project Review at three, six and 18 months, Licensee will be indirectly monitored by W. Keith McCulley, PE who will submit quarterly reports by letter to the Board, Licensee shall enter into the Freedom Journey Program with Faith Farm Ministries who will also submit quarterly reports to the Board. A Final Order was issued on 6/25/13 – Order of Reinstatement was issued on 9/13/13.

**Violation:** Section 471.033(1)(a), Florida Statutes

### Violation Reference

**471.033(1)(a):** Violating any provision of s. 455.227(1), s. 471.025, or s. 471.031, or any other provision of this chapter or rule of the board or department

**455.227(1)(t):** Failing to report in writing to the board or, if there is no board, to the department within 30 days after the licensee is convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction. A licensee must report a conviction, finding of guilt, plea, or adjudication entered before the effective date of this paragraph within 30 days after the effective date of this paragraph.

James Zaleski,

PE PE 51544

Case No. 2013000391

Licensee was charged with negligence in the practice of engineering, a violation of Section 455.227(1)(c), and Section 471.033(1)(d), Florida Statutes. Licensee entered a plea of guilty to criminal charges relating to fraud and civil theft from Licensee's employer - a contractor. Since the criminal actions occurred while performing services which, when performed by a PE, involved the use of engineering skills and the actions showed a lack of good moral character, the facts underlying the guilty plea involved the practice of and ability to practice engineering.

**Ruling:** Pursuant to Settlement Stipulation, the Board imposed a Fine of \$1,000, Costs of \$159, a Reprimand, a one-year Suspension (this Suspension is STAYED and will not take effect so long as Licensee is not convicted of any crimes for a period of five years), two years' Probation which includes completion of the Study Guide, and a Board-approved course in Advanced Engineering Professionalism and Ethics, and Appearance before the Board to discuss how the situation occurred, what improvements and quality control measures he plans to implement to improve his work product, and how he intends to prevent the circumstances from occurring in the future. A Final Order was issued on 4/15/14.

**Violation:** Section 455.227(1)(c), and Section 471.033(1)(d), Florida Statutes

### Violation Reference

<b>471.033(1)(d):</b>	Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of engineering or the ability to practice engineering.
<b>455.227(1)(c):</b>	Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.



# Section 5

## Code of Ethics

### **Preamble**

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

### **I. Fundamental Canons**

Engineers, in the fulfillment of their professional duties, shall:

- 1) Hold paramount the safety, health, and welfare of the public.
- 2) Perform services only in areas of their competence.
- 3) Issue public statements only in an objective and truthful manner.
- 4) Act for each employer or client as faithful agents or trustees.
- 5) Avoid deceptive acts.
- 6) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

### **II. Rules of Practice**

1. Engineers shall hold paramount the safety, health, and welfare of the public.
  - 1) If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
  - 2) Engineers shall approve only those engineering documents that are in conformity with applicable standards.

- 3) Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
  - 4) Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
  - 5) Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
  - 6) Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.
2. Engineers shall perform services only in the areas of their competence.
    - 1) Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
    - 2) Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
    - 3) Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.
  3. Engineers shall issue public statements only in an objective and truthful manner.
    - 1) Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.
    - 2) Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.

- 3) Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.
4. Engineers shall act for each employer or client as faithful agents or trustees.
  - 1) Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
  - 2) Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
  - 3) Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
  - 4) Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
  - 5) Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.
5. Engineers shall avoid deceptive acts.
  - 1) Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.
  - 2) Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public

authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

### **III. Professional Obligations**

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

- 1) Engineers shall acknowledge their errors and shall not distort or alter the facts.
- 2) Engineers shall advise their clients or employers when they believe a project will not be successful.
- 3) Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
- 4) Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
- 5) Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.

2. Engineers shall at all times strive to serve the public interest.

- 1) Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
- 2) Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
- 3) Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
- 4) Engineers are encouraged to adhere to the principles of sustainable development<sup>1</sup> in order to protect the environment for future generations.

3. Engineers shall avoid all conduct or practice that deceives the public.
  - 1) Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
  - 2) Consistent with the foregoing, engineers may advertise for recruitment of personnel.
  - 3) Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.
4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.
  - 1) Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
  - 2) Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.
5. Engineers shall not be influenced in their professional duties by conflicting interests.
  - 1) Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
  - 2) Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.
6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.

- 1) Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.
  - 2) Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.
  - 3) Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.
7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.
- 1) Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.
  - 2) Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.
  - 3) Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.
8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.
- 1) Engineers shall conform with state registration laws in the practice of engineering.
  - 2) Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.
9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.

- 1) Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
- 2) Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
- 3) Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
- 4) Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.
- 5) Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.

## References

**Florida Administrative Code, Chapter 61G15**, Board of Professional Engineers Organization and Purpose

<http://www.fbpe.org/legal/statues-and-rules>

**Florida Statutes, Title XXXII, Chapter 455**, Business and Professional Regulation: General Provisions

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0400-0499/0455/0455ContentsIndex.html&StatuteYear=2012&Title=%2D%3E2012%2D%3EChapter%20455](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0455/0455ContentsIndex.html&StatuteYear=2012&Title=%2D%3E2012%2D%3EChapter%20455)

**Florida Statutes, Title XXXII, Chapter 471**, Engineering

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0400-0499/0471/0471ContentsIndex.html&StatuteYear=2012&Title=%2D%3E2012%2D%3EChapter%20471](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0471/0471ContentsIndex.html&StatuteYear=2012&Title=%2D%3E2012%2D%3EChapter%20471)

**FBPE Disciplinary Actions**

<http://www.fbpe.org/legal/disciplinary-actions>

**Florida First District Court of Appeal**

**Robert C. Kany P.E. v. Florida Engineers Management Corporation**

Case No. 5D06-2267, February 12, 2007

<http://cases.laws.com/florida-5dca-5d06-2267-kany-v-florida-engineers-management-corp.pdf>



## Quiz Questions

**1. Licensees shall at all times recognize that their primary obligation is to,**

- A. Enhance the professional engineering profession by maintaining a high standard of integrity, skills, and practice
- B. Ensure compliance to all federal, state, and local codes
- C. Serve their clients, serve the public, serve the board
- D. Protect the life, health, property and welfare of the public

**2. In order to add standardized details into plans what must be done?**

- A. Place them on a separate sheet in the plan set with a different title block and have a state employed engineer seal the plans
- B. Perform a reasonable analysis to make sure that the inclusion of the details will meet acceptable engineering practices
- C. Nothing, standardized details are not required
- D. Omit the details from the plans and simply reference the state document that includes the applicable details.

**3. When applying your electronic seal to a single document file that multiple engineers are being asked to sign. Which action should be taken?**

- A. Add qualifying language describing what portions you take responsibility for.
- B. Nothing, the responsible engineer is the only engineer required to add qualifying language
- C. Make sure the plans themselves have a section declaring which responsibilities the engineer has taken responsible charge for
- D. Both A & C are correct

**4. Being convicted or found guilty of a crime, in any jurisdiction relating to the practice of engineering, is grounds for disciplinary action \_\_\_\_\_ and they licensee must report to the board within in \_\_\_\_\_.**

- A. Regardless of adjudication, 30 days
- B. If convicted of a felony, 10 days
- C. If the court mandates, 30 days
- D. If convicted of a misdemeanor, 10 days

**5. If an inactive licensed engineer decides to make their license active again after 2 years of inactive status, they are required to,**

- A. Complete 12 PDH of area of practice continuing education.
- B. Complete 24 PDH of area of practice continuing education
- C. Complete 4 PDH area of practice and 4 PDH Florida laws and rules
- D. Complete 4 PDH Florida laws and rules

**6. The exercise of supervisory authority over engineering work is known as,**

- A. Responsible control
- B. Overseeing control
- C. Responsible charge
- D. Overseeing charge

**7. Threshold inspectors shall have specific design experience in,**

- A. Foundations
- B. Prestressed concrete.
- C. Post-tensioned concrete
- D. All structural building components

**8. A licensee's seal to work is considered official once it is stamped,**

- A. Signed and Sealed
- B. Signed and Logged
- C. Signed and Dated.
- D. Sealed and Delivered

**9. True or False? A licensee operating a sole proprietorship using a fictitious name is exempt from requiring a certificate of authorization.**

- A. True
- B. False

- 10. A veteran can apply for licensure within \_\_\_\_\_ years of being honorably discharged to have the initial application fee and initial licensure fee waived.**
- A. One
  - B. Two
  - C. Three
  - D. Four
- 11. In regards to unlicensed practice of engineering. The fine shall be up to \_\_\_\_\_ for each month depending on the severity of the infraction practice to a maximum of \_\_\_\_\_.**
- A. \$100, \$1000
  - B. \$250, \$1000
  - C. \$175, \$2500
  - D. \$250, \$5000
- 12. In reference to a project that have been delegated, the most important responsibility of the engineer of record is,**
- A. Maintain project schedule and budget
  - B. Ensure professionalism and competence of all delegated engineers
  - C. Safety of all personnel
  - D. Supervisory control over all engineering decisions
- 13. In case number 2012052732, whereas the engineer sealed deficient plans for an aluminum screen enclosure, what was the total dollar amount required to get their license back to active status**
- A. \$3000
  - B. \$11,400
  - C. Reinstatement application fee
  - D. \$14,500
- 14. Applicants seeking licensure by endorsement shall have how many years of continuous professional-level engineering experience?**
- A. Twenty
  - B. Fifteen
  - C. Seven
  - D. Ten

**15. In reference to Robert Kany v. the FEMC, the ruling was,**

- A. Sustained
- B. Resulted in decreased charges
- C. Overturned
- D. Deemed "Unfair and Excessive"

**16. True or False, A Professional Engineer is exempt from Continuing Professional Competency requirements if he or she has at least twenty (20) years of acceptable professional experience and is at least sixty (60) years of age,**

- A. True
- B. False

**17. In reference to case 2013000391, the licensee had displayed,**

- A. Lack of good moral character
- B. Poor judgment
- C. Misrepresented his area of practice
- D. None of these

**18. True or False. Not notifying the Board of a change in address may result in disciplinary action.**

- A. True
- B. False

**19. A licensee has how many days to respond to contest a citation?**

- A. 10 day
- B. 30 days
- C. 90 days
- D. Anytime

**20. In reference to all disciplinary cases, which of the following is false?**

- A. The board publishes all disciplinary cases and they are accessible via fbpe.org
- B. If convicted, most all cases will result in fines and licensure suspension
- C. All convicted engineers must submit to a competence exam
- D. The severity of the infraction determines the severity of the fines

- 21. True or False. Engineers shall not solicit but may accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible, if such compensation is fully disclosed.**
- A. True
  - B. False
- 22. True or False. Engineers shall acknowledge their errors after consulting with their employers or clients.**
- A. True
  - B. False
- 23. True or False. Engineers shall not solicit nor accept a contract from a governmental body on which a principal or officer of their organization serves as a member.**
- A. True
  - B. False
- 24. True or False. Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.**
- A. True
  - B. False
- 25. True or False. Engineers may accept assignments and assume responsibility for coordination of an entire project and shall sign and seal the engineering documents for the entire project, including each technical segment of the plans and documents.**
- A. True
  - B. False
- 26. True or False. Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.**
- A. True
  - B. False

**27. True or False. If an engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employers or clients and such other authority as may be appropriate.**

- A. True
- B. False

**28. True or False. Engineers may issue subjective and partial statements if such statements are in writing and consistent with the best interests of their employers, clients, or the public.**

- A. True
- B. False

**29. True or False. Engineers may perform services outside of their areas of competence as long as they inform their employers or clients.**

- A. True
- B. False

**30. True or False. Engineers, in the fulfillment of their professional duties, must carefully consider the safety, health, and welfare of the public.**

- A. True
- B. False

**31. I have personally and successfully completed each chapter of instruction. You must answer true to complete this course.**

- A. True
- B. False