



# Mississippi– Laws, Rules, and Ethics for Professional Engineers

Three (3) Continuing Education Hours  
Course #MS101

Approved Continuing Education for Licensed Professional Engineers

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### Course Description:

The Mississippi Laws, Rules and Ethics course satisfies the Continuing Professional Competency (CPC) required one (1) hour of Ethics.

Additionally, the current Mississippi Laws and Rules are covered with an extra two (2) hours awarded which applies to the overall 15 hours of continuing education required for each MS licensed engineer.

The course is designed as a distance learning interactive course that enables the practicing professional engineer to examine the canons of ethics as well as keep up to date on the legal aspects that govern the practice of engineering in the state of Mississippi

### Objectives:

The primary objective of this course is to familiarize the student with the standards of professional behavior for adherence to the highest principles of ethical conduct.

The secondary objective of this course is to familiarize the student with the laws and rules regulating the practice of engineering in the state of Mississippi.

Upon successful completion of the course, the student will have a thorough understanding of ethical practices and be well versed with the MS laws and rules

### 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 to successful pass and complete the course.

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# Mississippi Code of 1972

## TITLE 73 PROFESSIONS AND VOCATIONS, CH. 13 ENGINEERS AND LAND SURVEYOR

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### **§73-13-1. Engineers must be licensed; use of words "graduate engineer".**

In order to safeguard life, health, and property, and to promote the public welfare, any person or firm in either public or private capacity practicing or offering to practice engineering shall hereafter be required to submit evidence that the person or firm is qualified so to practice engineering and shall be licensed as hereinafter provided; and it shall be unlawful for any person or firm to practice or to offer to practice in this state, engineering, as defined in the provisions of Sections 73-13-1 through 73-13-45, or to use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a professional engineer, unless such person has been duly licensed under the provisions of Sections 73-13-1 through 73-13-45. There is specifically reserved to engineering graduates of all universities and colleges accredited by a regional accrediting body that is recognized by the United States Department of Education, the right to disclose any college degrees received by such individuals and use the words "graduate engineer" on his stationery, business cards, and personal communications of any character.

### **§73-13-3. Definitions.**

The term "engineer" as used in sections 73-13-1 through 73-13-45 shall mean a professional engineer as hereinafter defined.

The term "professional engineer" within the meaning and intent of Sections 73-13-1 through 73-13-45 shall mean a person who has met the qualifications as required under Section 73-13-23(1) and who has been issued a certificate of registration as a professional engineer.

The term "engineer intern" as used in Sections 73-13-1 through 73-13-45 shall mean a candidate for licensure as a professional engineer who has met the qualifications as required under Section 73-13-23(2) and who has been issued a certificate of enrollment as an engineer intern.

The term "practice of engineering" within the meaning and intent of Sections 73-13-1 through 73-13-45 shall mean any service or creative work the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, expert technical testimony, evaluation, planning, design, and design coordination of engineering works and systems, planning the use of land, air and water, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications; any of which embraces such engineering services or work, either public or private, in connection with any utilities, water resources, structures, buildings, machines, equipment, processes, work systems, projects, communications systems, transportation systems, industrial or consumer products or equipment of control systems; or engineering services or work of a communications, mechanical, electrical, hydraulic, pneumatic, chemical, geotechnical (including geology and geohydrology incidental to the practice of engineering), geological, environmental, or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.

Design coordination includes the review and coordination of those technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, surveyors, architects, landscape architects, and other professionals working under direction of the engineer.

The term "firm" as used in Sections 73-13-1 through 73-13-45, shall mean a business entity that offers the professional engineering or surveying services to the public of its licensed personnel who are either employees, officers, directors, partners, members or managers. A business entity may be formed as either:

- (a) A professional service corporation;
- (b) A corporation;
- (c) A partnership, including limited partnerships and limited liability partnerships; or
- (d) A limited liability company.

Prior to any contract for or the provision of professional engineering or surveying services in this jurisdiction, a firm shall obtain a certificate of authority under Section 73-13-43 or Section 73-13-105 of this chapter. A sole proprietorship, owned and operated by a licensee under this chapter is not required to obtain a certificate of authority under Section 73-13-43 or Section 73-13-105. A professional association of licensed professional engineers or professional surveyors is not required to obtain a

certificate of authority under Section 731-13-43 of Section 731-13-105. Both the licensed sole proprietor and the licensees within a professional association shall maintain their individual licenses in active status and only offer the professional service for which they are licensed and qualified to provide.

Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects but exclude the practice of surveying as defined in section 73-13-71(d).

A person or firm shall be construed to practice or offer to practice engineering within the meaning and intent of Sections 73-13-1 through 73-13-45, who practices any branch of the profession of engineering; or provides, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer, or through the use of some other title implies that he is a professional engineer; or who holds himself out as able to perform or provide, or who does perform any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering.

The term "board" as used in Sections 73-13-1 through 73-13-45 shall mean the Board of Licensure for Professional Engineers and Surveyors provided for by said sections.

### **§73-13-5. Appointment of board members.**

A Board of Licensure for Professional Engineers and Surveyors is hereby created whose duty it shall be to administer the provisions of Sections 73-13-1 through 73-13-105. The board shall consist of six (6) licensed professional engineers, who shall be appointed by the Governor from eighteen (18) nominees recommended by the Mississippi Engineering Society, and shall have the qualifications required by Section 73-13-7, and three (3) licensed professional surveyors who are not licensed professional engineers, who shall be appointed by the Governor from nine (9) nominees recommended by the Mississippi Association of Professional Surveyors and who shall have the qualifications required by Section 73-13-77. The members of the board shall be appointed from the above nominees. The board so appointed shall have two (2) engineer members from each of the three (3) State Supreme Court districts, designated by district, Post 1 and Post 2, and shall serve for four (4) years, or until their successors are duly appointed and qualified.

The members recommended by the Mississippi Association of Professional Surveyors shall be appointed from each of the three (3) state Supreme Court districts and serve for four (4) years, or until their successors are duly appointed and qualified. Each member of the board shall receive a certificate of appointment from the Governor, and before beginning his term of office he shall file with the Secretary of State the

constitutional oath of office. On the expiration of the term of any member, the Governor shall in the manner herein provided appoint for a term of four (4) years a licensed professional engineer having the qualifications required by Section 73-13-7, or a licensed professional surveyor having the qualifications required by Section 73-13-77 to take the place of the member of the board whose term is about to expire. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified.

The initial members of the reconstituted board shall serve terms of office as follows:

- (a) The term of the engineer member presently serving at large, which term was set to expire on April 8, 2004, shall expire on July 1, 2004; and from and after July 1, 2004, this appointment shall be designated as Post 1.
- (b) The term of the engineer member presently serving at large, which term was set to expire on April 8, 2004, shall expire on July 1, 2005; and from and after July 1, 2004, this appointment shall be designated as Post 2.
- (c) An appointment of an engineer member serving at large shall be made on July 1, 2004, and shall expire on July 1, 2006; and from and after July 1, 2004, this appointment shall be designated as Post 3.
- (d) The term of the engineer member presently serving from the First Supreme Court District, which term was set to expire on April 8, 2006, shall expire on July 1, 2007; and from and after July 1, 2004, this appointment shall be designated as Post 4.
- (e) The term of the engineer member presently serving from the Second Supreme Court District, which term was set to expire on April 8, 2006, shall expire on July 1, 2008; and from and after July 1, 2004, this appointment shall be designated as Post 5.
- (f) The term of the engineer member presently serving from the Third Supreme Court District, which term was set to expire on April 8, 2006, shall expire on July 1, 2009; and from and after July 1, 2004, this appointment shall be designated as Post 6.
- (g) The term of the surveyor member presently serving at large, which term was set to expire on April 8, 2007, shall expire on July 1, 2004; subsequent appointments shall be made from the First Supreme Court District; from and after July 1, 2004, this appointment shall be designated as Post 7.
- (h) An appointment of a surveyor member shall be made from the Second Supreme Court District; the appointment shall be made on July 1, 2004, and shall expire on

July 1, 2005; from and after July 1, 2004, this appointment shall be designated as Post 8.

(i) The term of the surveyor member presently serving at large, which term was set to expire on April 8, 2006, shall expire on July 1, 2006; subsequent appointments shall be made from the Third Supreme Court District; from and after July 1, 2004, this appointment shall be designated as Post 9.

At the expiration of a term, members of the board shall be appointed in the manner prescribed in this section for terms of four (4) years from the expiration date of the previous terms. Any vacancy on the board prior to the expiration of a term for any reason, including resignation, removal, disqualification, death or disability, shall be filled by appointment of the Governor in the manner prescribed in this section for the balance of the unexpired term. The Mississippi Engineering Society and/or the Mississippi Association of Professional Surveyors shall submit a list of nominees no more than ninety (90) days after a vacancy occurs, and the Governor shall fill such vacancies within ninety (90) days after each such vacancy occurs.

It shall not be considered the duty of the State of Mississippi to provide office space and office equipment for the board herein created.

No member of the board shall, during the term of his office or thereafter, be required to defend any action for damages in any of the courts of this state where it is shown that said damage followed or resulted from any of the official acts of said board in the performance of its powers, duties or authority as set forth in this chapter. Any such action filed shall upon motion be dismissed, at the cost of the plaintiff, with prejudice.

### **§73-13-7. Qualifications of board members.**

Each member of the board shall be a citizen of the United States and shall have been a resident of the state for at least five (5) years prior to the appointment. He shall be at least thirty-two (32) years of age, shall have been engaged in the practice of engineering or surveying, as the case may be, for at least ten (10) years and shall have been in responsible charge of important engineering or surveying work, as the case may be, for at least five (5) years. Each year of teaching engineering or surveying in a school or college shall be equivalent to a year of responsible charge of engineering or surveying work. Not more than two (2) members of the board at any time may be teachers of engineering in the universities or colleges of the state. All members of the board shall be licensed professional engineers or licensed professional surveyors, as the case may be.



**§73-13-9. Compensation of the board members.**

Each member of the board shall receive per diem in accordance with Section 25-3-69 when actually attending to the work of the board or any of its committees, and shall be reimbursed for traveling expenses in accordance with Section 25-3-41 in carrying out the provisions of Sections 73-13-1 through 73-13-105.

**§73-13-11. Removal of board members; vacancies.**

The Governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor as provided in Section 73-13-5.

**§73-13-13. Meetings of board; election of officers; quorum.**

The board shall hold at least two (2) regular meetings each year, in the first and third calendar quarters. Special meetings shall be held at such time as the regulations of the board may provide. Notice of all meetings shall be given in such manner as the regulations of the board may provide. The board shall elect annually, at a regular or special meeting, the following officers: a president, a vice president, and a secretary. A quorum of the board shall consist of not less than five (5) members.

**§73-13-15. Rules and regulations; seal; powers.**

The board shall have the power to adopt and amend all regulations and rules of procedure, not inconsistent with the Constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt and have an official seal. It shall not be required to post bond on appeals. The board shall have the further power and authority to:

- (a) Establish standards of conduct and ethics;
- (b) Institute proceedings in its own name;
- (c) Promulgate rules restricting competitive bidding;
- (d) Promulgate rules limiting or restricting advertising;
- (e) Promulgate rules requiring a demonstration of continuing education;
- (f) Adopt and promulgate reasonable bylaws and rules and regulations necessary or appropriate for the proper fulfillment of its duties under state laws pertaining thereto;
- (g) Provide for the enforcement of and to enforce the laws of the State

of Mississippi and, in particular, the provisions of this chapter, and the bylaws, rules and regulations of the board;

(h) Provide by appropriate rules and regulations, within the provisions of this chapter, a system for taking the disciplinary actions provided for in Section 73-13-37, including the imposition of fines as provided therein;

(i) Investigate, prosecute or initiate prosecution for violation of the laws of this state pertaining to the practices of engineering and surveying, or matters affecting the rights and duties or otherwise related thereto; and

(j) Adopt rules setting forth qualifications and standards of practice for firms; and

(k) Provide by appropriate rules and regulations, within the provisions of this chapter, a system for the annual and/or biennial renewal of certificates of licensure.

In carrying into effect the provisions of Sections 73-13-1 through 73-13-105, the board, under the hand of its president or secretary and the seal of the board may subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in any case involving the disciplinary actions provided for in Section 73-13-37 or 73-13-89 or practicing or offering to practice without licensure. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to such authority as may have jurisdiction, setting forth the facts, and thereupon such authority shall, in a proper case, issue its subpoena to such person, requiring his attendance before such authority and there to testify or to produce such books, papers, and documents, as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the said authority may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the authority.

### **§73-13-17. Receipts and disbursements.**

(1) The board shall keep an account of all monies derived from the operation of Sections 73-13-1 through 73-13-105. All fees and any other monies received by the board shall be deposited in a special fund that is created in the State Treasury and shall be used for the implementation and administration of Sections 73-13-1 through 73-13-105 when appropriated by the Legislature for such purpose. The monies in the special fund shall be subject to all provisions of the state budget laws that are applicable to special fund agencies, and disbursements from the special fund shall be made by the State Treasurer only upon warrants issued by the State Fiscal Officer upon requisitions signed by the executive director of the board and countersigned by the secretary of the

board. Any interest earned on this special fund shall be credited by the State Treasurer to the fund and shall not be paid into the State General Fund. Any unexpended monies remaining in the special fund at the end of the fiscal year shall not lapse into the State General Fund. The State Auditor shall audit the financial affairs of the board and the transactions involving the special fund at least once a year in the same manner as for other special fund agencies.

(2) The executive director and the secretary of the board shall give a surety bond satisfactory to the other members of the board, conditioned upon the faithful performance of their duties. The premium on said bond shall be regarded as a proper and necessary expense of the board. When any member of the board or any employee thereof is engaged on business of the board away from the principal office of the board, he shall be entitled to receive expenses as authorized in Section 25-3-41, and members of the board shall be entitled to per diem in an amount not to exceed that authorized in Section 25-3-69, all as approved by the board.

(3) The board shall employ an executive director and may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures for any purpose which in the opinion of the board are reasonably necessary for the proper performance of its duties under this chapter

### **§73-13-19. Records and reports.**

The board shall keep a record of its proceedings and a register of all applications for licensure, which register shall show (a) the name, age, and residence of such applicant, (b) the date of the application, (c) the place of business of such applicant, (d) his educational and other qualifications, (e) whether or not an examination was required, (f) whether the applicant was rejected, (g) whether a certificate of licensure was granted, (h) the date of the action of the board, and (i) such other information as may be deemed necessary by the board.

The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the executive director of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

Annually, on or before March 15, the board shall submit to the Governor a report of its transactions of the preceding year, and shall file with the Secretary of State a copy of such report of the board, attested by affidavits of its president and its secretary.

### **§73-13-21. Roster to be prepared.**

A roster showing the names and places of business or residence of all licensed professional engineers and licensed professional surveyors and licensed firms shall be prepared biennially by the board.

### **§73-13-23. Qualifications for licensure.**

(1) (a) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional engineer:

Graduation in an engineering curriculum of four (4) years or more from a school or college approved by the board as of satisfactory standing or graduation in an engineering, engineering technology, or related science curriculum of four (4) scholastic years from a school or college other than those approved by the board plus a graduate degree in an engineering curriculum from a school or college wherein the same engineering curriculum at the undergraduate level is approved by the board as of satisfactory standing; a specific record of four (4) years of qualifying engineering experience indicating that the applicant is competent to practice engineering (in counting years of experience, the board at its discretion may give credit not in excess of three (3) years of satisfactory graduate study in engineering), and the successful passing of examinations in engineering as prescribed by the board; or

(b) In considering the qualifications of applicants, engineering teaching may be construed as engineering experience.

(c) The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be the practice of engineering.

(d) Any person having the necessary qualifications prescribed in Sections 73-13-1 through 73-13-45 to entitle him to licensure shall be eligible for such licensure although he may not be practicing his profession at the time of making his application.

(e) No person shall be eligible for licensure as a professional engineer who is not of good character and reputation, as defined in the board's Code of Professional Conduct, or who presents claims in support of his application which contain major discrepancies.

(2) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for enrollment as an engineer intern:

- (a) Graduation in an engineering curriculum of four (4) scholastic years or more from a school or college approved by the board as of satisfactory standing or graduation in an engineering, engineering technology, or related science curriculum of four (4) scholastic years from a school or college other than those approved by the board plus a graduate degree in an engineering curriculum from a school or college wherein that same engineering curriculum at the undergraduate level is approved by the board as of satisfactory standing; and
- (b) Successfully passing a written examination in the fundamental engineering subjects.

### **§73-13-25. Application for licensure; fees.**

Applications for enrollment as an engineer intern or for licensure as a professional engineer shall be on the forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detailed summary of the applicant's qualifying experience. Applications for licensure or relicensure as a professional engineer shall also contain not less than five (5) references, of whom three (3) or more shall be engineers having personal knowledge of the applicant's engineering experience.

The application fee for licensure as a professional engineer shall be determined by the board but shall not exceed Seventy-five Dollars (\$75.00), which fee shall accompany the application.

The application fee for enrollment as an engineer intern shall be determined by the board but shall not exceed Twenty-five Dollars (\$25.00), which fee shall accompany the application.

Whenever an applicant is cited to an examination or reexamination, an additional fee equal to the actual cost of the examination shall be paid by the applicant.

Each application or filing made under this section shall include the Social Security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

### **§73-13-27. Examinations.**

Examinations shall be required for enrollment as an engineer intern and for licensure as a professional engineer. The examinations shall be held at such time and place as the board may determine.

The scope of the examinations and the methods and procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering works so as to insure the safety of life, health and property.

### **§73-13-29. Certificate of Licensure.**

The board shall issue a certificate of licensure upon payment of licensure fee as provided for in Sections 73-13-1 through 73-13-45, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of said sections. In the case of a licensed engineer, the certificate shall authorize the "practice of engineering." In the case of an engineer intern, the certificate shall state that the applicant has successfully passed the examination in fundamental engineering subjects required by the board and has been enrolled as an "engineer intern." Certificates shall show the full name, shall have a serial number, and shall be signed by the president and the secretary of the board under seal of the board.

The issuance of a certificate of licensure by this board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered professional engineer while the said certificate remains unrevoked or unexpired.

Before engaging in the practice of the profession, each licensee hereunder shall upon licensure obtain a seal of the design authorized by the board, bearing the licensee's name and the legend, "licensed professional engineer". Plans, specifications, and reports prepared by a licensee shall be stamped with the seal by the licensee during the life of the licensee's certificate, but it shall be unlawful for anyone to stamp or seal any documents with the seal after the certificate of the licensee named thereon is expired or revoked, or while the certificate is suspended. It shall be unlawful for anyone other than the licensee to whom the seal has been issued to stamp or seal any document utilizing such seal.

### **§73-13-31. Expiration of Certificate of Licensure.**

(1) Except as provided in Section 33-1-39 and subsection (2) of this section, certificates of licensure shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed under Sections 73-13-1 through 73-13-105, of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years. Such notice shall occur at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee, as determined by the board, not to exceed Fifty Dollars (\$50.00) or One Hundred Dollars (\$100.00) if renewals are for two (2) years. A person who is licensed as a professional engineer and as a professional surveyor may affect both renewals by the payment of a fee not to exceed Seventy-five Dollars (\$75.00), or One Hundred Fifty Dollars (\$150.00) if renewals are for two (2) years. The failure on the part of any licensee to renew his certificate annually, or biennially, in the month of December as

required above, shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten percent (10%) for each month, or fraction of a month that payment of renewal is delayed; provided, however, that the maximum for delayed renewal shall not exceed five (5) times the normal renewal fee. A state agency or any of the state's political subdivisions, such as a county or municipality, may pay the renewal fee of any licensee who is a full-time employee; provided, however, that any licensee who permits his/her renewal fee to be paid from any public funds shall not perform engineering or surveying services for a fee or other emoluments for the public or for any other public entity. If a certificate has expired for six (6) months or more, the licensee shall be required to submit a new application, paying back fees and submitting proof of continuing professional competency compliance. If the certificate has expired for five (5) years or more, in addition to submitting a new application and proof of continuing professional competency compliance, reexamination in the principles and practice may be required. The reexamination requirement may be waived by the board provided the applicant has continued to practice in another jurisdiction from the date of expiration of his certificate.

### **§73-13-33. Rights and privileges.**

All professional engineers, licensed in accordance with the provisions of Chapter 56 of the Laws of Mississippi 1928, Extraordinary Session, and as amended under Senate Bill No. 383, Chapter 131, Laws of 1940, and whose certificates of licensure are in effect at the time of passage of Sections 73-13-1 through 73-13-45, shall be entitled to all the rights and privileges of a licensed professional engineer as provided for in those sections, while the said certificates remains unrevoked or unexpired.

### **§73-13-35. Persons holding certificates from a national body or other state.**

The board may, upon application therefor and the payment of a fee in accordance with Section 73-13-25, issue a certificate of licensure as a professional engineer to any person who holds a certificate of qualification or licensure issued to him by proper authority of any state or territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of Sections 73-13-1 through 73-13-45 and the rules established by the board. The issuance of a certificate of licensure by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act. *(The last sentence of this section was enacted by the 2013 state legislature; "this act" refers to Senate Bill 2419, 2013 session, which can be found on the Board's website.)*

**§73-13-37. Disciplinary actions; hearings; subpoenas; statement of charges; transcripts; witnesses; right to counsel; penalties; probation; reissuance of certificate of licensure; appeals.**

(1) The board, upon satisfactory proof and in accordance with the provisions of this chapter and the implementing regulations of the board pertaining thereto, is authorized to take the disciplinary actions provided for hereinafter against any person or firm practicing engineering or surveying, including nonregistrants, for any of the following reasons:

- (a) Violating any of the provisions of Section 73-13-1 through 73-13-45 or the implementing bylaws, rules, regulations, or standards of ethics or conduct duly adopted and promulgated by the board pertaining to the practice of engineering;
- (b) Fraud, deceit or misrepresentation in obtaining a certificate of licensure;
- (c) Gross negligence, malpractice or incompetency;
- (d) Any professional misconduct, as defined by the board through bylaws, rules and regulations, and standards of conduct and ethics;
- (e) Practicing or offering to practice engineering on an expired certificate or while under suspension or revocation of certificate unless said suspension or revocation be abated through probation, as provided for hereinafter; or
- (f) Addiction to or dependence on alcohol or other habit-forming drugs or being an habitual user of alcohol, narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effect.

(2) Any person may prefer charges against any other person practicing engineering or surveying, including nonlicensees, for committing any of the acts set forth in subsection (1). Such charges shall be sworn to, either upon actual knowledge or upon information and belief, and shall be filed with the board. In the event any person certified under Sections 73-13-1 through 73-13-45 is expelled from membership in any Mississippi professional engineering society or association, the board shall thereafter cite said person to appear at a hearing before the board and to show cause why disciplinary action should not be taken against him.

The board shall investigate all charges filed with it and, upon finding reasonable cause to believe that the charges are not frivolous, unfounded or filed in bad faith, may, in its discretion, cause a hearing to be held, at a time and place fixed by the board, regarding the charges and may compel the accused by subpoena to appear before the board to respond to said charges.



No disciplinary action taken hereunder may be taken until the accused has been furnished both a statement of the charges against him and notice of the time and place of the hearing thereof, which shall be personally served on or mailed by registered or certified mail, return receipt requested, to the last-known business or residence address of the accused not less than thirty (30) days prior to the date fixed for the hearing.

Notice on a firm shall be had by notice on the principal or officer designated by the firm as having management or supervision of the engineering/surveying practice, or on the registered agent in the case of a corporation not domiciled in Mississippi.

(3) At any hearing held hereunder, the board shall have the power to subpoena witnesses and compel their attendance and may also require the production of books, papers, documents, etc., as provided elsewhere in this chapter. The board is authorized to designate or secure a hearing officer to conduct the hearing. All evidence shall be presented under oath, which may be administered by any member of the board, and thereafter the proceedings may, if necessary, be transcribed in full by the court reporter and filed as part of the record in the case. Copies of such transcriptions may be provided to any party to the proceedings at a cost to be fixed by the board.

All witnesses who shall be subpoenaed and who shall appear in any proceedings before the board shall receive the same fees and mileage as allowed by law in judicial civil proceedings, and all such fees shall be taxed as part of the costs in the case.

Where in any proceeding before the board any witness shall fail or refuse to attend upon subpoena issued by the board, shall refuse to testify or shall refuse to produce any books and papers, the production of which is called for by the subpoena, the attendance of such witness and the giving of his testimony and the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

The accused shall have the right to be present at the hearing in person, by counsel or other representative, or both. The board is authorized to continue or recess the hearing as may be necessary.

(4) At the conclusion of the hearing, the board may either decide the issue at that time or take the case under advisement for further deliberation. The board shall render its decision not more than ninety (90) days after the close of the hearing, and shall forward to the last-known business or residence address of the accused, by certified or

registered mail, return receipt requested, a written statement of the decision of the board.

If a majority of the board finds the accused guilty of the charges filed, the board may: (a) issue a public or private reprimand; (b) require the guilty party to complete a course or courses, approved by the board, in ethics or other appropriate subjects; (c) suspend or revoke the certificate of the accused, if the accused is a licensee; and/or (d) in lieu of or in addition to such reprimand, course completion, suspension or revocation, assess and levy upon the guilty party a monetary penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) for each violation.

(5) A monetary penalty assessed and levied under this section shall be paid to the board upon the expiration of the period allowed for appeal of such penalties under this section, or may be paid sooner if the guilty party elects. Money collected by the board under this section shall be deposited to the credit of the board's special fund in the State Treasury.

When payment of a monetary penalty assessed and levied by the board in accordance with this section is not paid when due, the board shall have the power to institute and maintain proceedings in its name for enforcement of payment in the chancery court of the county and judicial district of residence of the guilty party and if the guilty party be a nonresident of the State of Mississippi, such proceedings shall be in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

(6) When the board has taken a disciplinary action under this section, the board may, in its discretion, stay such action and place the guilty party on probation for a period not to exceed one (1) year upon the condition that the guilty party shall not further violate either the laws of the State of Mississippi pertaining to the practices of engineering or the bylaws, rules and regulations, or standards of conduct and ethics promulgated by the board.

(7) The board, in its discretion, may assess and tax any part or all of the costs of any disciplinary proceedings conducted under this section against either the accused, the charging party, or both, as it may elect.

(8) The power and authority of the board to assess and levy the monetary penalties provided for in this section shall not be affected or diminished by any other proceeding, civil or criminal, concerning the same violation or violations except as provided in this section.

(9) The board, for sufficient cause, may reissue a revoked certificate of licensure or authority whenever a majority of the board members vote to do so.

(10) Any person or firm aggrieved by an action of the board denying or revoking his certificate of licensure or authority or relicensure as a professional engineer or his certificate of enrollment as an engineer intern, or who is aggrieved by the action of the board as a result of disciplinary proceedings conducted under this section may appeal therefrom to the chancery court of either the county wherein the appellant resides or the Chancery Court of the First Judicial District of Hinds County, at the election of the appellant. If the appellant is a nonresident of this state, the appeal shall be made to the Chancery Court of the First Judicial District of Hinds County. Such appeal shall be perfected before the board by the filing with the board of a notice of appeal to the chancery court. The court shall require a bond in an amount not to exceed One Thousand Dollars (\$1,000.00) conditioned to pay all costs which may be adjudged against the appellant. The notice of appeal shall be filed not later than thirty (30) days after the decision of the board is forwarded to the guilty party, as provided hereinabove.

All appeals perfected hereunder shall not act as a supersedeas, and shall be made to the chancery court solely upon the record made before the board during the disciplinary hearing. When the appeal shall have been properly perfected as provided herein, the board shall cause the record of the proceedings conducted before it to be compiled, certified and filed with the chancery court. The briefing schedule shall be the same as for appeals to the Supreme Court. The chancery court shall be required to rule on the case within sixty (60) days of the close of briefing. All procedures and penalties provided for in this section shall apply to nonlicensees as well as licensees.

(11) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the certificate of licensure of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a certificate for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a certificate suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a certificate suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a certificate when required by Section 93-11-157 or 93-11-163, are not actions from which an appeal may be taken under this section. Any appeal of a suspension of a certificate that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(12) Any board member whose objectivity in a disciplinary proceeding is impaired shall either recuse himself from sitting as a member of the board in a formal disciplinary hearing in that proceeding or be disqualified therefrom. In the event a disciplinary proceeding is brought against a member or former member of the board, no member of the board who has served concurrently with the respondent in the disciplinary proceeding shall sit as a member of the board in a formal disciplinary hearing in that proceeding. If, after recusal or disqualification of board members as provided herein, there does not remain a quorum of the board to sit for a disciplinary hearing, the board shall have the power to select, in accordance with duly promulgated regulations of the board, substitute panel members from slates of candidates established by the Mississippi Engineering Society and the Mississippi Association of Professional Surveyors to the extent necessary to achieve the number of panel members must meet the qualifications of board members as provided in Section 73-13-7 and shall receive compensation as provided for board members in Section 73-13-9.

### **§73-13-39. Violations and penalties.**

Any person or firm who shall practice, or offer to practice, engineering in this state without being licensed in accordance with the provisions of Sections 73-13-1 through 73-13-45, or any person presenting or attempting to use as his own the certificate of licensure or seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person or firm who shall attempt to use an expired or revoked certificate of licensure, or any person or firm who shall violate any of the provisions of Sections 73-13-1 through 73-13-45, shall be guilty of a misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Thousand Dollars (\$5,000.00) in addition to reimbursement of investigative expenses and court costs, or suffer imprisonment for a period not exceeding three (3) months, or both. The criminal penalties provided for in this section may be assessed in addition to those civil penalties provided for in Section 73-13-37.

Unless licensed in accordance with the provisions of Sections 73-13-1 through 73-13-45, no person shall:

- (a) Directly or indirectly employ, use, cause to be used or make use of any of the following terms or any combinations, variations or abbreviations thereof as a professional, business or commercial identification, title, name, representation, claim, asset or means of advantage or benefit: "engineer," "professional engineer," "licensed engineer," "registered engineer," "registered professional engineer," "licensed professional engineer," "engineered," "engineering"; or

(b) Directly or indirectly employ, use, cause to be used or make use of any letter, abbreviation, word, symbol, slogan, sign or any combinations or variations thereof which in any manner whatsoever tends or is likely to create any impression with the public or any member thereof that any person is qualified or authorized to practice engineering; or

(c) Receive any fee or compensation or the promise of any fee or compensation for performing, offering or attempting to perform any service, work, act or thing which is any part of the practice of engineering.

Any person, firm, partnership, association or corporation which shall do, offer or attempt to do any one or more of the acts or things set forth in items (a) through (c) of the preceding paragraph shall be conclusively presumed and regarded as engaged in the practice of engineering.

It shall be the duty of all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of Sections 73-13-1 through 73-13-45 and to prosecute any persons violating same. The Attorney General of the state or his assistant shall act as legal advisor of the board in carrying out the provisions of Sections 73-13-1 through 73-13-45.

### **§73-13-41. Applicability.**

(1) Sections 73-13-1 through 73-13-45 shall not be construed to prevent or to affect:

(a) The practice of any other legally recognized profession or trade, such as: (i) engineers employed by contractors to supervise work on which a licensed engineer is engaged; (ii) architects who are registered under the provisions of Chapter 1 of this title; and (iii) the practice of geology as regulated pursuant to Title 73, Chapter 63:

(b) The work of an employee or a subordinate of a person holding a certificate of licensure under this act, provided such work does not include final designs or decisions and is done under the responsibility, checking and supervision of a person holding a certificate of licensure under Sections 73-13-1 through 73-13-45;

(c) The practice of officers and employees of the government of the United States while engaged within this state in the practice of engineering for said government;

(d) The performance of engineering services by any regular full-time employee of a manufacturing, research and development, railroad or other industrial corporation, provided:

(i) Such services are rendered on or in connection with existing fixed works, equipment, systems, processes or facilities owned, operated, or leased by such corporation and/or its affiliates;

- (ii) Such services are not rendered to third parties;
- (iii) Such services do not consist of original plant design, original system design, or original process design, other than routine system extensions that do not compromise the integrity of the original design;
- (iv) Such services comply with all requirements specified by the employee's company or corporation;
- (v) All fixed works, equipment, systems, processes or facilities modified by such services undergo a safety review that confirms; 1. the construction and equipment is in accordance with design specifications; and 2. safety, operating, maintenance and emergency procedures are in place to safeguard life, health and property.
- (vi) Such services are not required to be performed, approved, or certified by a professional engineer pursuant to law or regulation, whether federal, state, or local, other than Section 73-13-1 through 73-13-45 hereof or any applicable rules or regulations promulgated by the Mississippi Board of Licensure for Professional Engineers and Surveyors.

It is further stated that this subsection (d) is intended to codify the policy and practices of the board at the time of enactment of this Senate Bill No. 2380, 1999 Regular Session, and that any ambiguities in this subsection should be construed in accordance with this intent.

(e) The performance of engineering services with respect to utility facilities by any public utility subject to regulation by the Mississippi Public Service Commission, the Federal Communications Commission, the Federal Energy Regulatory Commission, or the Nuclear Regulatory Commission, including its parents, affiliates, subsidiaries, provided that they are engaged solely and exclusively in performing service for such public utility and/or its parents, affiliates or subsidiaries, and as long as such services comply with all standard operating procedures and requirements specified by the employee's company or corporation. This exemption shall not extend to: (i) the practice of engineering performed by public utilities or their officers or employees when such services are rendered to non-affiliated third parties in exchange for compensation other than that received from their employer, or the use of any name, title or words which tend to convey the impression that a nonregistrant is offering engineering services to the public; and (ii) services which are required to be performed, approved or certified by a professional engineer pursuant to law or regulation whether federal, state or local, other than Sections 73-13-1 through 73-13-45 hereof or any applicable rules or regulations promulgated by the Mississippi Board of Licensure for Professional Engineers and Surveyors.

It is further stated that this subsection (e) is intended to codify the policy and practices of the board at the time of enactment of Senate Bill No. 2380, 1999 Regular Session, and that any ambiguities in this subsection should be construed in accordance with this intent; or

(f) The practice of engineering shall not include the work ordinarily performed by persons who operate or maintain machinery, equipment, water plants, power generation, utility transmission, utility distribution facilities, sewage plants and solid waste disposal facilities; or

(g) Activities conducted during the course of, or in anticipation of, litigation including, but not exclusively: analyzing, evaluating, consulting, reconstructing, testing, responding to the opinions and testing conducted by others, and offering expert testimony. However, this exemption shall not apply in legal proceedings where the subject matter of the litigation or claim is nonforensic engineering activity legally required to be performed under a Mississippi engineer's license.

(2) In addition to the exemptions provided in subsection (1), there is hereby granted and reserved to the board the authority to exempt from Sections 73-13-1 through 73-13-45 by regulations specific engineering tasks or functions performed by regular full-time employees of manufacturing, public utility, research and development, railroad or other industrial corporations rendered in the course and scope of their employment, on a case by case basis, if, in the opinion of the board, the public health and welfare is not endangered nor the engineering profession diminished.

### **§73-13-43. Certificate of Authority; corporations, firms, partnerships.**

As of January 1, 2005, no corporation, firm or partnership may engage in the practice of professional engineering in this state unless it has been issued a certificate of authority by the board. In order to qualify for a certificate of authority, a corporation, firm or partnership must have at least one (1) Mississippi-licensed professional engineer as a principal officer, partner or designated principal engineer of the firm who has management responsibility for such practice and who makes significant technical and/or contractual judgments on behalf of the firm which would affect the firm's professional reputation and liability.

The board shall have the authority to promulgate rules and regulations setting procedures, standards and other requirements for issuing and maintaining a certificate of authority for corporations, firms or partnerships practicing engineering in the State of Mississippi.

Applications for a certificate of authority shall be on the forms prescribed and furnished by the board, and provide all the information required by said board. The board shall establish a fee for the certificate of authority application, not to exceed Two Hundred Fifty Dollars (\$250.00) for a one-year certificate or Four Hundred Dollars (\$400.00) for a two-year certificate. Any corporation, firm or partnership having the necessary qualifications as prescribed herein and the rules and regulations of the board shall be issued a certificate of authority for said corporation, firm or partnership to practice engineering and to contract and collect fees for furnishing this service.

Each certificate of authorization will expire on December 31 of the end of the renewal period year. It shall be the duty of the board to notify every corporation, firm or partnership holding a certificate of authority under Sections 73-13-1 through 73-13-45 of the date of the expiration of the certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years. The renewal fee shall not exceed One Hundred Fifty Dollars (\$150.00) for one (1) year or Three Hundred Dollars (\$300.00) or two (2) years; penalties for late renewal shall be ten percent (10%) per month that payment is delayed. Additionally, if any of the information on the initial or any subsequent renewal application changes for the corporation, firm or partnership, said corporation, firm or partnership shall notify the board in the form and manner prescribed by the board within thirty (30) days of the change.

Effective January 1, 2005, the Secretary of State shall not issue a certificate of incorporation, licensure or authorization to an applicant or licensure as a foreign firm to a corporation, firm or partnership which includes in its name, or among the objectives for which it is established, any of the words, "engineer," "engineering," or any modification or derivation thereof, unless the board has issued for said applicant a certificate of authority or a letter indicating the eligibility of such applicant to receive such a certificate. The corporation, firm or partnership applying shall supply such certificate or letter from the board with its application for incorporation, licensure or authorization to the Secretary of State.

An engineer who renders occasional, part-time or consulting engineering services to or for a corporation, firm or partnership may not, for the purposes of this section, be designated as being responsible for the professional activities of the firm.

No such corporation, firm or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, officers, partners, members or managers by reason of its compliance with the provisions of this section. No individual practicing engineering under this chapter shall be relieved of responsibility for engineering services performed by reason of employment or other relationship with a firm holding an authorization certificate.



### **§73-13-45. Public Works.**

(1)(a) Neither the state, nor any of its political subdivisions, such as a county, city or town, shall award construction contracts of any public work involving the practice of engineering or architecture unless the plans, specifications and estimates have been prepared and such work supervised by a registered professional engineer or architect; however, nothing in this subsection shall be held to apply to such public work in which the expenditure does not exceed One Hundred Thousand Dollars (\$100,000.00).

(b) The state and any of its political subdivisions, such as a county, city or town, may engage in construction of public buildings involving the practice of engineering or architecture and using political subdivision work forces without the supervision of a licensed professional engineer or architect, provided that the total cost of the public building does not exceed One Hundred Fifty Thousand Dollars (\$150,000.00). This paragraph (1)(b) shall not supersede any rules and regulations promulgated by the State Department of Health and the Department of Environmental Quality.

(2)(a) In the awarding of public contracts for professional engineering services, preference shall be given to resident professional engineers over those nonresident professional engineers domiciled in a state having laws which grant a preference to the professional engineers who are residents of that state. Nonresident professional engineers shall be awarded Mississippi public contracts only on the same basis as the nonresident professional's state awards contracts to Mississippi professional engineers under similar circumstances. When a nonresident professional engineer submits a proposal for a public project, he shall attach thereto a copy of his resident state's current statute, resolution, policy, procedure or executive order pertaining to such state's treatment of nonresident professional engineers. Resident professional engineers actually domiciled in Mississippi, be they corporate, individuals or partnerships, shall be granted preference over nonresidents in the awarding of contracts in the same manner and to the same extent as provided by the laws of the state of domicile of the nonresident. As used in this section, the term "resident professional engineer" includes a nonresident person, firm or corporation that has been qualified to do business in this state and has maintained a permanent full-time office in the State of Mississippi for not less than two (2) years prior to submitting a proposal for a public project, and the subsidiaries and affiliates of such a person, firm or corporation.

(b) The provisions of this subsection shall not apply to any contract for any project upon which federal funds would be withheld because of the preference requirements of this subsection.

(c) Any contract, agreement or arrangement for professional engineering services negotiated, made or entered into, directly or indirectly, by the state, counties,

municipalities, or any political subdivision thereof, or by any special districts, which is in any way in violation of the provisions of this subsection is hereby declared to be void as contrary to the public policy of this state and shall not be given effect or enforced by any court of this state or by any of its officers or employees.

(d) Nothing in this subsection shall affect the validity of any contract in existence prior to July 1, 1989.

(e) For purposes of this section, the term "professional engineering services" means those within the scope of the practice of professional engineering as defined by Sections 73-13-1 through 73-13-45, or those performed by any registered professional engineer in connection with professional employment or practice.

# Mississippi Administrative Code

## Part 901 Chapter 1: Organization, purpose, and operation of the Board

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### Rule 1.1 Purpose

The Mississippi State Board of Licensure for Professional Engineers and Surveyors was created to ensure the safeguarding of life, health and property and to promote the public welfare.

### Rule 1.2 Authorization to achieve the purpose

Current Mississippi Law provides a means for achieving the purpose through:

1. the establishment of minimum qualifications for entry into the professions of Engineering and Surveying;
2. authorizing power to adopt and amend all Rules and Regulations of procedure necessary for the proper performance of the Board's duties; and
3. granting further power and authority to protect the public from the attempts of incompetent or unscrupulous persons to practice the professions of Engineering and Surveying, through provisions which enable swift and effective disciplinary actions.

### Rule 1.3 Composition and appointment of Board Members

The Board is composed of nine (9) members - six (6) licensed professional engineers and three (3) licensed professional surveyors who are not licensed professional engineers. Board Members are appointed by the Governor. Each appointment is made from a list of nominees furnished by the Mississippi Engineering Society (MES) and by the Mississippi Association of Professional Surveyors (MAPS). Appointments are for a term of four (4) years, and each Board Member is eligible for re-nomination and reappointment.

### Rule 1.4 Voting

All members of the Board including the President shall be entitled to vote and to make or second motions. A majority vote of those present is required to pass a motion. A member expecting to be absent for a vote may provide written comments as to his position; however, he may not grant a vote by proxy.

## **Rule 1.5 Summary Description of Organization and Operation**

The Board is an agency of the State of Mississippi. All costs of operation of the Board, including administrative, secretarial, clerical, investigative, equipment purchases and office rental, are paid from fees collected by the Board and authorized by annual appropriation by the Legislature. The Board may employ those persons required, qualified and authorized, including full or part-time, necessary to perform the administration of the Laws of the state and those rules regulating the practice of engineering and surveying. The Board will delegate authority and responsibility to the Executive Director for assigning duties to and obtaining adequate performance from the employees of the Board.

## **Rule 1.6 Election**

The Board shall annually elect the following officers: President, Vice President and Secretary.

## **Rule 1.7 Term of Office**

The term of office shall coincide with the Fiscal Year of the State of Mississippi, July 1 through June 30.

## **Rule 1.8 Duties of Officers**

1. President of the Board - The President shall be the executive officer of the Board. When present he shall preside at all meetings. He shall appoint such committees as the Board may authorize from time to time. He shall cast one (1) vote on all roll calls. He shall sign all certificates, the Annual Report to the Governor, and all other official documents. He shall, in the absence of a Secretary or Executive Director, sign checks. He shall perform all other duties usually pertaining to the office of President and permitted by Law.
2. Vice-President - The Vice-President, in the absence of the President, shall perform the duties delegated to the President except that only the President shall sign certificates, checks and the Annual Report to the Governor.
3. Secretary - The Secretary shall conduct all correspondence in the name of the Board except that performed by the President and that delegated to the Executive Director. The Secretary shall countersign all checks with the Executive Director of the Board. Additionally, he shall exercise supervisory authority over the Executive Director's administration of Board policy and the processing of its routine operations. He shall perform those other duties as prescribed by the statute.

## **Rule 1.9 Vacancies**

If, for any reason, a vacancy shall occur in the Board, the President and the Secretary shall prepare a notice to the Governor asking for the appointment of a new member to fill the unexpired term, in accordance with the provisions of the Law. If the vacancy shall occur in the office of the President, the Vice-President and the Secretary shall prepare the notice to the Governor. Such notice shall designate which appointed position is vacant and which society or association is to furnish the list from which the appointee is to be selected.

If a vacancy occurs in any office, or if any officer becomes incapacitated, the Board will elect a new officer in a regular meeting. If the position of Secretary becomes vacant, the President shall appoint a new secretary to fill the remaining portion of the term.

## **Rule 1.10 Surety Bonds**

The Executive Director, President and the Secretary shall furnish surety bond to the State of Mississippi in an amount directed by the Board, said bond to be filed with the Secretary of State.

## **Rule 1.11 Compensation and Expenses**

Board Members shall be compensated on a per diem basis for days actually spent in the performance of their duties attending to the work of the Board or any of its committees, and additionally shall be reimbursed for actual expenses incurred in the performance of their duties. The rates paid shall be in accordance with applicable Law.

Payment for per diem, travel and other expenses incurred by the Board and employees of the Board shall be authorized and approved by the Executive Director, President, or Secretary, in accordance with applicable Law.

## **Rule 1.12 Executive Director**

The Board shall hire an Executive Director who shall be responsible for the administration of Board Policy and for the processing of its routine operations and is designated as agent for the Board for service of legal process upon the Board. The duties of the Executive Director shall be as determined by the Board.

The Executive Director shall countersign checks with the Secretary of the Board.

As an executive officer, the Executive Director shall serve at the pleasure of the Board. In the absence of an Executive Director, the Secretary shall assume the duties of the Executive Director, as necessary.

All correspondence to the Board, including requests for information and all submissions and other requests should be addressed to the Executive Director at the Board's office as follows:

Executive Director  
Mississippi State Board of Licensure for Professional Engineers and Surveyors  
660 North Street, Suite 400  
Jackson, Mississippi 39202

### **Rule 1.13 Principal Office**

The principal office of the Board shall be at Jackson, Mississippi. The statute states that, "It shall not be considered the duty of the State of Mississippi to provide office space and office equipment for the Board herein created."

### **Rule 1.14 Regular Meetings and Attendance**

1. The Board shall schedule at least two (2) regular meetings each year, one (1) in the first and third calendar quarters.
2. Board members shall attend all regular or special meetings unless prevented from doing so by reason of court order, subpoena, or business with a court which has the sole prerogative of setting the date of such business, death of a family member, or illness of the Board member, or illness of the member's immediate family. An absence for any other reason constitutes an unexcused absence.
3. No Board member may be absent from three (3) consecutive meetings or be absent from more than three (3) meetings during a single fiscal year unless the absence is excused for one (1) of the reasons stated in subsection 2a of this rule. In the event a Board member has three (3) consecutive unexcused absences or has unexcused absences for more than three (3) meetings during a fiscal year, the Board shall petition the Governor to remove said member and to appoint a successor.
4. In the event of an unexcused absence from a Board meeting, NCEES meeting or other authorized meeting or seminar, a Board member shall reimburse the Board for expenses incurred by the Board such as meeting registration fees, hotel room deposits, and airline tickets.
  - a. "Family" consists of immediate family, nieces, nephews, aunts, uncles, cousins, and in-laws.
  - b. "Immediate family" consists of spouse, children, parents, parents-in-Law, siblings, grandchildren, and grandparents.

### **Rule 1.15 Special Meetings**

Special meetings may be held as needed or as called by any officer or a quorum of the Board.

### **Rule 1.16 Notice of Meeting**

1. The last item of business at each meeting will be to agree upon and schedule the dates and place of the next meeting. The Executive Director shall furnish written notice of any meeting to the media.
2. A call for a special meeting under emergency conditions may be issued by email or telephone by the Executive Director.

### **Rule 1.17 Order of Business**

The order of business at all regular and special meetings shall normally be as recommended by the Executive Director and at the pleasure of the President.

### **Rule 1.18 Quorum**

Five (5) or more members present shall be a quorum.

### **Rule 1.19 Robert's Rules of Order**

Robert's Rules of Order Newly Revised shall govern the proceedings of the Board except as otherwise provided herein or by statute.

### **Rule 1.20 Open Meetings**

In compliance with Open Meeting Laws of the State of Mississippi, members of the general public are welcome to attend meetings of the Board. The Board has adopted the following rules of conduct for members of the general public attending meetings of the Board.

1. Members of the public are requested to register with the Executive Director. Organized groups must have one (1) spokesperson.
2. Upon request, an individual or a spokesperson will be allowed to address the Board. Speaking time is limited to ten (10) minutes, unless extended by the presiding officer.
3. When the Board votes to go into Executive Session, all members of the general public must leave the meeting room; they will be advised when they may re-enter.
4. Members of the general public will behave in a calm, professional manner.
5. Failure to comply with these rules will be grounds for dismissal from the meeting.

6. If members of the public require special provisions accommodating a qualifying temporary or permanent disability in order to attend a Board meeting, a written request identifying the disability and accommodations needed must be submitted to the Executive Director thirty (30) days before the meeting. If this request is not submitted in advance, the availability of on-site accommodations is not guaranteed.

### **Rule 1.21 Adoption of Rules and Regulations**

The Board shall promulgate and adopt Rules and Regulations.

### **Rule 1.22 Seal of the Board**

The Board shall adopt a seal to be used where required or as appropriate.

### **Rule 1.23 National Council**

The Board shall affiliate with the National Council of Examiners for Engineers and Surveyors (NCEES). The President shall be, ex-officio, the delegate of the Board to the Council. If the President is unable to attend, the President may appoint any other Board Member as the delegate. Other members of the Board and the Executive Director may attend meetings as shall be determined by the Board. Additionally, the Board may authorize the attendance by the Assistant Attorney General, who is the legal advisor to the Board, and the Board Investigator.

### **Rule 1.24 Procedures for Inspection and Copying of Public Records**

All non-exempt public records used, prepared, possessed or retained by this Board in the performance of its function as a public body will be made available to any person for the purpose of inspection, copying or mechanical reproduction of same in accordance with the Mississippi Public Records Act of 1983 and the following procedures as duly adopted by this Board.

1. All requests shall be made in writing to the Executive Director of the Board, preferably upon the standard form provided by the Board. Each item of the request shall be concise, clear, specific, and dated and signed by the requesting party.
2. The Board will respond to such request no later than fourteen (14) government workdays from the date of the receipt of the request.
3. After the Board's response, non-exempt public records will be made available to the requesting party. The records may be reviewed Monday through Friday from 9:00 a.m. until 5:00 p.m. except on government holidays and any period during which the Board is in session. All such production of records shall be accomplished



with a minimum of disruption of the on-going business of the Board and its employees.

4. The cost, to be pre-paid by the requesting party, for the mechanical reproduction of records will be calculated on the basis of fifty (50) cents per copy, with a minimum fee set at fifteen dollars (\$15.00).
5. Any postage costs in excess of one dollar (\$1.00) will be pre-paid by the requesting party.
6. The cost of labor to be pre-paid by the requesting party for the search, review and mechanical reproduction of records will be the actual cost to the Board.
7. No copies of records will be released to the requesting party until full payment in advance has been made hereunder.
8. The Board or its employees reserve the right to postpone copying or mechanically reproducing any records pending receipt of satisfactory prepayment covering the above- mentioned labor, reproduction and postage costs.

## Part 901 Chapter 2: DEFINITIONS

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### **Rule 2.1 Definitions in Law**

Applicable Mississippi Law provides for definitions of the following terms:

1. Board
2. Engineer or Professional Engineer
3. Engineer Intern
4. Practice of Engineering
5. Professional Surveyor
6. Surveyor Intern
7. Surveying
8. Practice of Surveying

### **Rule 2.2 Terms**

The terms "licensure" and "enrollment" as set forth in the Law, shall be defined as:

1. Enrollment is the official recognition by the Board of the applicant's successful completion of requirements to become an engineer intern or surveyor intern.

2. Licensure is the official recognition by the Board of the applicant's successful completion of requirements to practice the professions of engineering or surveying.

### **Rule 2.3 Retired Licensee**

The term Retired shall mean a person who meets the requirements of Rule 7.1.

### **Rule 2.4 Consultation, Investigation and Evaluation**

The terms "consultation, investigation and evaluation" as used in the definition of the practice of engineering set forth in the Law, shall include, but are not limited to the following:

1. services involving the selection of proper tests to be performed for the purpose of developing design criteria;
2. forensic engineering services;
3. services for the purpose of determining causes of failures; and
4. analyses to provide recommendations for materials to be used in design, or judgment which relates to the acceptability of construction.

### **Rule 2.5 Gross Negligence**

The term "gross negligence" as used in the Law shall mean the practice of engineering or surveying by a licensee characterized by reckless disregard for the rights, safety, or welfare of others, which could result in injury or damage to life or property or financial loss.

### **Rule 2.6 Incompetency**

The term "incompetency" as used in the Law shall mean the practice of engineering or surveying by a licensee who is either incapable of exercising ordinary care and diligence or who lacks the ability and skill necessary to properly perform the duties undertaken.

### **Rule 2.7 Misconduct**

The term "misconduct" as used in the Law shall mean the practice of engineering or surveying by a licensee who performs any acts, causes omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the profession of engineering or surveying.

### **Rule 2.8 Supervision**

The terms "under his direction"..., "under the direction" and the terms "under his direct supervision" and "under his responsible supervisory control" will be construed by this

Board to mean that the professional engineer or professional surveyor providing such supervision shall have made the decision on technical matters of policy and design and shall have exercised his professional judgment in all engineering and surveying matters that are embodied in the design and the plans, specifications, or other documents involved in the work. The term "supervision of construction" as it relates to an engineer shall mean the general oversight of an engineering project as it relates to the implementation of a design during construction. By applying his seal or signature to the final documents he signifies that he has complied with the requirements of these definitions, these Rules and Regulations, and applicable state Law and that he accepts responsibility therefore.

### **Rule 2.9 Responsible Charge**

The term "responsible charge" shall mean direct control and personal supervision of engineering work or surveying work done by oneself or by others over which the professional engineer or surveyor exercises supervisory authority under an employer-employee relationship.

## **Part 901 Chapter 3: APPLICATIONS**

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### **Rule 3.1 Form of Application**

1. All applications for examination or licensure shall be made on forms provided by the Board. Applications must be clearly typewritten in black suitable for copying and scanning.
2. All questions must be answered, except as otherwise specified.
3. An application not properly completed, not containing all of the required information, or not accompanied by the required fee will be deemed incomplete with a statement of the reason for nonapproval.
4. A recognizable photograph shall be included with the application. The photograph shall be not more than six (6) months old and shall be passport size (2 inches by 2 inches, or at least 600 by 600 pixels) with the face not less than 3/4 inches wide.
5. Applications shall be subscribed and sworn to before a Notary Public or other persons qualified to administer oath. Applications of students who take the examination while enrolled at Mississippi State University, the University of Mississippi, or Jackson State University may be signed by the Dean or the Dean's authorized representative.
6. The conditions set out in the application shall be construed to be a part of the Rules and Regulations.

### **Rule 3.2 Acceptance of Applications**

1. Withholding of information, misrepresentations, or untrue statements will be cause for denial of an application.
2. Persons who have been previously disciplined by the Board shall appear before the Board and show cause why they should be accepted as an applicant for licensure or enrollment.
3. No person shall be eligible for licensure or enrollment who is not of good character and reputation.

### **Rule 3.3 Deadline to Submit Applications**

For paper-and-pencil examinations, all applications shall be filed with the Board by December 15 for examinations administered April and by June 15 for the October examination administration. Applications received after these dates will be processed for the next scheduled examination.

Furthermore, all required documentation supporting the application must be submitted by the application deadline. Applications that are incomplete, that are not fully documented, will be considered for examinations administered after all documentation has been received.

Applications for computer-based examinations may be submitted at any time. Applicants for computer-based examinations should allow at least ninety (90) days after the application is completed with all required documentation for the Board to review and officially act upon the application.

Applications for comity licensure may be submitted at any time. Applicants for comity licensure should allow at least ninety (90) days after the application is completed, with all required documentation submitted, for the Board to review and officially act upon the application.

### **Rule 3.4 Transcript**

When the Board requires a transcript showing subjects and grades of all scholastic work which the applicant wishes to claim, this transcript should also show degree issued, and date of issuance. It is the responsibility of the applicant to see that such record is sent directly from the institution to the Board office. No action will be taken by the Board until such information is received.

### **Rule 3.5 Experience Record**

In relating experience, an applicant must account for the entire period of time which has elapsed since the beginning of the experience record.

### **Rule 3.6 Applications Filed at State Universities**

Undergraduate students and graduate students enrolled in an ABET/EAC accredited Engineering curriculum at the University of Mississippi, Mississippi State University or Jackson State University shall apply for the FE examination in accordance with the process established by the Board and the university.

### **Rule 3.7 Applications from Non-Residents**

1. Only applicants who are residents of Mississippi may apply for initial enrollment as an Engineer Intern or Surveyor Intern or for initial licensure as a Professional Engineer or Professional Surveyor. Initial PE applicants applying in accordance with the MOU between the Board and the Japan PE/FE Examiners Council (JPEC) are exempted from this rule requiring Mississippi residency.
2. The Board may require the applicant to furnish proof that he is a legal resident of Mississippi. For the purposes of this rule, "legal resident" shall mean a natural person whose domicile is within the state of Mississippi. "Domicile" shall likewise mean the place where such person actually resides with the intention of remaining there indefinitely or of returning there permanently when temporarily absent. Proof of legal residency may be shown by producing a valid Mississippi driver's license, a valid voter licensure card, or a certificate evidencing homestead exemption status.
3. Military personnel who are otherwise qualified to sit for examinations, but whose legal residence is located outside the State of Mississippi, may apply if sufficient proof is produced showing permanent party or temporary duty assignment to a military installation located within this state.
4. An applicant for engineer intern currently enrolled as an undergraduate or graduate student in an ABET/EAC accredited engineering curriculum at Mississippi State University, the University of Mississippi or Jackson State University is excluded from this rule.

### **Rule 3.8 Applications from Applicants with Degrees from Foreign Schools**

1. Degrees recognized by the Canadian Engineering Accreditation Board (CEAB) - An applicant with an engineering degree in a curriculum recognized by the Canadian Engineering Accreditation Board (CEAB) will be considered to hold a degree equivalent to the ABET/EAC accredited degree.
2. Non-ABET or Foreign Degrees – Undergraduate engineering degrees from universities that are not ABET accredited must be evaluated by the Board-approved evaluation service(s). If the evaluation finds that a degree meets the NCEES

Engineering Education Standard, the applicant will be allowed to apply. If the evaluation finds that a degree does not meet the NCEES Engineering Education Standard, the applicant will not be allowed to apply, but will be advised of the courses necessary to cure the deficiency. An applicant with an undergraduate non-ABET or foreign degree plus a graduate degree from a university in a curriculum which is ABET accredited at the undergraduate level will qualify for application; the undergraduate degree will not need to be evaluated.

3. Language Comprehension - An initial applicant for licensure as a professional engineer or surveyor whose primary language is other than English, shall submit to the Board a TOEFL (test of English), certificate with a score of five hundred fifty (550) or higher. This test shall have been taken within two years of the application date. An applicant who has received a degree from an institution in an English-speaking country will be exempt from this requirement.

### **Rule 3.9 Reconsideration of Action on an Application**

1. Reconsideration request - An applicant may request reconsideration of a denial of application if request is based on additional information or evidence which could affect the Board's decision.

2. Time limit for reconsideration - A reconsideration request must be made within sixty (60) days after notice of denial has been mailed.

3. Personal appearance - An applicant may file a written request to appear before the Board to support the presentation of the additional information or evidence. Such additional information or evidence must be filed at the Board office at least thirty (30) days before the scheduled date of appearance.

### **Rule 3.10 Disposition of Applications**

Applications may be approved; deferred for more experience or additional references or other reasons; closed; or denied.

1. Approved applications

a. When an application is approved by the Board for citation to an examination, the applicant shall be notified by the Executive Director. The action of the Board shall be spread on the minutes.

b. When an applicant has met the qualifications for licensure, the applicant shall be notified of licensure and the action of the Board shall be spread on the minutes.

2. Deferred applications – Deferred applications shall remain on file for one (1) year from date of deferment. If the reason for deferment is not removed within this time, the application will be closed.

### **Rule 3.11 Reapplication**

An applicant not otherwise prohibited by the Board may reapply

### **Rule 3.12 Retention of Applications**

1. Retention Schedule – In accordance with the following retention schedule, records will be retained on file in the Board office for the period indicated:

- a. Professional Engineer or Surveyor – seventy-five (75) years or until seven (7) years after the death of the licensee, whichever occurs first
- b. Engineer or Surveyor Intern – seventy-five (75) years or until seven (7) years after the death of the licensee, whichever occurs first
- c. Closed or denied – two (2) years

2. Any application that involved disciplinary action or violations will be retained indefinitely.

## **Part 901 Chapter 4: COMITY LICENSURE**

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### **Rule 4.1 Requirements**

Licensure as Professional Engineer or Professional Surveyor by comity will be granted provided the applicant is currently licensed and in good standing with other NCEES member Boards and meets all current Mississippi requirements. A PE comity applicant licensed prior to 1970 by examination requirements differing from those specified in Rule 11.0 may be deemed to meet current Mississippi examination requirements if the Board determines that the examinations actually completed are equivalent to those required by Rule 11.0.

The Board may recognize examinations passed before the applicant had accrued sufficient qualifying experience according to Mississippi experience requirements, if: 1) the applicant was a resident of the state in which he was examined, and the examinations were passed in accordance with that state's regulations in effect at the time, and, 2) the experience requirements according to Mississippi experience requirements have been met.

## **Rule 4.2 Surveyor Requirements**

Licensure as a Professional Surveyor by comity will be granted only to applicants who are licensed by fourteen (14) hours of NCEES examinations, or its equivalency as determined by the Board. The Mississippi Section examination (2 hours) will be required of all applicants for licensure by comity.

## **Rule 4.3 NCEES Record**

If a properly executed NCEES Record, prepared by the NCEES Records office, is provided with certified copies verifying applicant's educational qualifications, experience record, responses from references and licensure in another state or states where the sixteen (16) hour examination was passed, the applicant will be required to complete only those sections of the application form dealing with General Information, Licensure in other states, and the Affidavit.

## **Rule 4.4 Certificate of Licensure**

The certificate of licensure for a Professional Engineer comity licensee will bear the date the application is approved by the Board in accordance with Board procedures. The certificate of licensure for a Professional Surveyor comity licensee will bear the date the Mississippi Section examination is successfully completed.

## **Rule 4.5 Limited Licensure for Expert Technical Testimony**

1. Subject to the provisions of item 2 below, any person not licensed to practice engineering in this state and who desires to provide expert testimony in the field of engineering in the form of an opinion or otherwise in any judicial or administrative proceeding, must apply to the Board for a limited license. Said license shall be administratively granted, provide that each such person shall:

- a. provide his or her full name, residence address, office address, voice and facsimile telephone numbers, and email address;
- b. provide the full name, office address, voice and facsimile telephone numbers, and email address for each firm, practice group of other entity with which he or she is associated in the practice of engineering;
- c. provide evidence that he or she is licensed to practice engineering in another jurisdiction and is in good standing in that jurisdiction;
- d. bind himself or herself to adhere to the principles of ethics and professional responsibility general applicable to persons licensed to practice engineering in Mississippi;



- e. give notice to the board of the fact of his or her initial appearance as aforesaid, in substantial compliance with a form to be made available by the Board prior to or within thirty (30) days after providing such testimony, as may be prescribed by the Board (no notice is required for subsequent appearances if the limited license is still current and in good standing);
  - f. pay the current application fee for the initial appearance and, if desired, renew the limited license when it expires;
  - g. submit himself or herself to the jurisdiction of the Board of Licensure for the application, administration and enforcement of this rule.
2. This rule does not apply to any practice, work or service exempt from Miss. Code Ann. Sections 73-13-1 through 73-13-45 by Miss. Code Ann. Section 73-13-41, and shall not be construed to prevent or affect the right of any person to provide testimony concerning any such practice, work or service. By way of example, and not of limitation, a person, who provides work or service “under the responsibility, checking and supervision” of a licensee, may, without the limited license required by Section 1, testify fully in any judicial or administrative proceeding in this state concerning such work or services, including his or her opinions, other findings, and the grounds therefore relating to such work or services, including expert testimony in the field of engineering to the extent permitted or required by the court or agency within whose jurisdiction the testimony is provided and the judicial or administrative processes pertaining thereto.
3. Nothing contained in this rule or in the Board’s administration thereof may unreasonably burden any state or federal court or any administrative agency in the administration of rules governing the permissibility of, and admissibility of, testimony by expert witnesses in the form of an opinion or otherwise.

## Part 901 Chapter 5: FEES

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### **Rule 5.1 Method of Payment**

Fees are payable to Mississippi State Board of Licensure for Professional Engineers and Surveyors, 660 North Street, Suite 400, Jackson, MS 39202. Payment of fees must be made by check or money order and upon availability, by credit card or echeck online at the Board’s website. Checks returned for insufficient funds will result in an additional charge of forty dollars (\$40.00). Applications received without the proper fee will be returned to the applicant.

## Rule 5.2 Fee Schedule

Fees shall be in accordance with the current Fee Schedule, available upon request. The Board has adopted fees for the following items:

1. Applications
2. Examinations
3. Verification Fee
4. Reproduction Fee
5. Renewal of licensure
6. Renewal of dual licensures
7. Roster
8. Processing Fee
9. Mailing List
10. Replacement or Duplicate Certificate
11. Insufficient funds checks

## Rule 5.3 Refunds

Once an application has been accepted for processing, there will be no refund of the application fee.

## Part 901 Chapter 6: ROSTER

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### Rule 6.1 Schedule of Printing

The roster will be available electronically to the Governor, the Secretary of State, and the chancery clerks. It is available to all others on the Board's web site at no cost. At the Board's discretion, a biennial roster *may* be printed in a limited quantity, and available for a fee set by the Board.

## Part 901 Chapter 7: RETIRED LICENSEES

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### Rule 7.1 Qualifications

1. A Professional Engineer who chooses not to practice or offer to practice engineering in the State of Mississippi and is at least sixty (60) years of age and having twenty (20) years of aggregate practice may request Retired Status on the annual licensure renewal form. The annual renewal fee for the Retired Status shall be ten dollars (\$10.00). A

licensee in a Retired Status can represent themselves to the public as PE, Retired but cannot otherwise practice or offer to practice engineering in the State of Mississippi.

2. A Professional Surveyor who chooses not to practice or offer to practice surveying in the State of Mississippi and is at least sixty (60) years of age and having twenty (20) years of aggregate practice may request Retired Status on the annual licensure renewal form. The annual renewal fee for the Retired Status shall be ten dollars (\$10.00). A licensee in a Retired Status can represent themselves to the public as PS, Retired but cannot otherwise practice or offer to practice surveying in the State of Mississippi.

### **Rule 7.2 Listing in Roster**

Licensees in Retired Status will be listed in the Roster as PE, Retired or PS, Retired.

### **Rule 7.3 Reinstatement after Retirement**

Retired licensees wishing to be reinstated to Active Status shall be required to:

1. Submit an application to the Board.
2. Provide proof they have obtained the PDH requirements for one renewal period as defined in Chapter 23: Continuing Professional Competency for the current renewal period, which must include one (1) PDH of Ethics. Dual Licensees bringing only one (1) license to Active Status are required to obtain the PDH units required for the license to be reinstated. If the license being brought to Active Status is a Professional Surveyor license, one (1) PDH unit of Standards of Practice for Surveying in Mississippi must be obtained. All PDH units being claimed for reinstatement must have been acquired within the previous renewal period.
3. Submit payment for the annual renewal fee of an active license as set by the Board.

## **Part 901 Chapter 8: CURRICULA APPROVED BY THE BOARD**

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### **Rule 8.1 Engineering Curricula**

The phrase "engineering curriculum of four (4) years or more from a school or college approved by the Board as of satisfactory standing" or "graduation in an accredited engineering curriculum of four (4) scholastic years or more from a school or college approved by the Board as of satisfactory standing" as used in the Law, is interpreted by the Board to mean:

1. Baccalaureate Degree Accredited by EAC/ABET – A baccalaureate degree accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET) or its equivalent.
2. Degrees recognized by the Canadian Engineering Accreditation Board (CEAB) – An applicant with an engineering degree in a curriculum recognized by the Canadian Engineering Accreditation Board (CEAB) will be considered to hold a degree equivalent to the EAC/ABET accredited degree.
3. Foreign Degrees accredited by the EAC/ABET – Degrees from foreign universities that are evaluated and accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET).
4. Degrees evaluated as meeting the NCEES Engineering Education Standard – Degrees from universities that are evaluated by the Board-approved evaluation service and found to meet the NCEES Engineering Education Standard. The evaluation must be completed *prior to* submitting the application to the Board office.
  - a. If the evaluation finds deficiencies in humanities, social sciences, or general education, and the applicant is applying for the FE examination or the PE examination, or the applicant is a comity applicant who has been licensed less than five (5) years, then the deficiencies must be remediated by taking additional coursework. The Board must approve the additional coursework proposed by the applicant, prior to beginning the course(s).
  - b. If the evaluation finds deficiencies in humanities, social sciences, or general education, and the applicant is a comity applicant who has been licensed five (5) years or longer, then additional coursework will not be required.
  - c. If the evaluation finds deficiencies in areas *other than* humanities, social sciences, or general education, the deficiencies must be remediated by taking additional coursework, *regardless* of whether the applicant is a comity applicant or an applicant for the FE or PE examinations. The Board must approve the additional coursework proposed by the applicant, prior to beginning the course(s).

### **Rule 8.2 Surveying Curricula Approved by the Board**

The phrase "successful completion of a curriculum of two (2) scholastic years or more" is interpreted by the Board to mean completion of a minimum of sixty-two (62) semester hours from a school or college approved by the Board. For all courses taken to satisfy the list below, a grade point average of 2.00 or higher on a 4.00 point scale is required. The courses taken must include:

<b>Subject</b>	<b>Required Minimum Semester Hours</b>
Surveying	12
Mathematics (Algebra, Trigonometry, Calculus)	6
Technical Courses (Advance Mathematics, Advanced Surveying, Statistic)	6
Graphics (CAD, Computer Science, Drawing, GIS)	6
English (Composition, Oral Communication, Technical Writing)	6
Electives*	26
<b>Minimum Total Hours</b>	<b>62</b>

\* *Recommended Electives include: Accounting, Astronomy, Business Law, Dendrology, General Business, Land Law, Legal Research, Public Policy, Real Estate Law, and Urban Planning.*

### **Rule 8.3 Related Science**

1. For Engineer Intern or Professional Engineer applicants, a related science curriculum, in order to be approved by the board, must be a four-year curriculum leading to a bachelor of science degree in chemistry, biology, geology, physics, mathematics, computer science, or a similar science curriculum deemed acceptable to the board.
2. For Surveyor Intern or Professional Surveyor applicants, a related science curriculum, in order to be approved by the board, must be a four-year curriculum leading to a bachelor of science degree in engineering, mathematics, forestry, GIS, cartography, or a similar science curriculum deemed acceptable to the board.

## **Part 901 Chapter 9: EXPERIENCE**

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### **Rule 9.1 Evaluation of Experience**

*General, All Licensure Applicants* - The Board will take the following criteria into consideration when evaluating experience:

1. Concurrent Time - Concurrent time, that is, time spent in engineering or surveying work while attending school, will be credited either as education experience or work

experience, but not as both; provided, however, engineering students who complete a formal cooperative engineering education (ABET accredited) program of fifty-two (52) weeks or more will be granted six (6) months of experience credit. Engineering students who complete a formal cooperative engineering (ABET accredited) education program of at least twenty-six (26) weeks, but less than fifty-two (52) weeks, will be granted three (3) months of experience credit. No experience credit of less than three (3) months will be granted.

2. Military Experience - Military experience, to be creditable, must have been spent in engineering or surveying and of a character equivalent to that required in the civilian sector in like work.

### 3. Actual Work Experience for Initial (first time) Licensure Applicants

a. Qualifying professional engineering experience must be obtained under the supervision of a licensed professional engineer.

b. Qualifying professional surveying experience must be obtained under the supervision of a licensed professional surveyor.

c. With reference to Mississippi statutes 73-13-23 and 73-13-77 and Rule 11.18, applicants seeking dual licensure (both Professional Engineer and Professional Surveyor) must meet the experience requirements for each license.

d. If the experience was not obtained under the direct supervision of a licensed professional engineer or professional surveyor, then the indirect supervision must be satisfactorily explained with respect to the degree and type of supervision received.

### 4. Actual Work Experience for Comity Licensure Applicants

a. Professional Engineer applicants for comity licensure who have been licensed and practicing for ten (10) years or more should submit experience verification forms from prior supervisors. If these cannot be obtained, the Board will consider experience verification forms or character reference forms from Professional Engineers who are familiar with the applicant's work.

b. Professional Engineer applicants for comity licensure who have been licensed and practicing for less than ten (10) years must submit experience verification forms from Professional Engineer supervisors who had review and approval authority over the applicant's work.

c. Professional Surveyor applicants for comity licensure who have been licensed and practicing for ten (10) years or more should submit experience verification forms from prior supervisor. If these cannot be obtained, the applicant should provide a written explanation or justification for why experience verification forms from prior

supervisors cannot be obtained. In such circumstances, the Board will consider experience verification forms or character reference from Professional Engineers who are familiar with the applicant's work.

d. Professional Surveyor applicants for comity licensure who have been licensed and practicing for less than ten (10) years must submit experience verification forms from Professional Surveyor supervisors who had review and approval authority over the applicant's work.

e. If the comity licensure applicant's experience cannot be verified and documented in accordance with the four (4) procedures listed above, the Board may deny licensure, or, in the alternative, may require substantial additional documentation to verify the applicant's qualifying experience to the Board's satisfaction.

#### 5. Anticipated Work Experience for Licensure Applicants

Experience must have been completed at the time the application is submitted. Experience which is anticipated to be obtained after the submission of the application will not be considered in the evaluation. Furthermore, postdating of the application so that anticipated experience can be included is not permitted and the application will not be evaluated.

### **Rule 9.2 Evaluation of Experience – Engineering**

Work experience must be progressive and of an increasing standard of quality and responsibility and must follow graduation, except for the experience credit granted for completion of a formal cooperative engineering education program as provided in Rule 9.01 above.

### **Rule 9.3 Sales Experience**

For sales experience to be creditable, it must be demonstrated conclusively that engineering principles and engineering knowledge were actually employed. The mere selection of data or equipment from a company catalogue or a similar publication will not be considered engineering experience.

### **Rule 9.4 Undergraduate Degree Credit**

In no case shall an applicant receive more than four (4) years of experience credit for undergraduate education.

### **Rule 9.5 Graduate Degree Credit**

Successful completion of a master's degree will be credited as one (1) year of engineering experience. Completion of a Ph.D. will be credited as three (3) years of experience. No more than a total of three (3) years of experience may be credited

through advance study. Graduate degrees must be in a curriculum that has an undergraduate EAC/ABET accredited program. Experience credit for graduate degrees shall not be allowed when the graduate degree is used to satisfy the education requirements of Mississippi Statute 73-13-23.

### **Rule 9.6 Teaching Experience**

For teaching experience to be creditable, the engineer applicant must have taught in an engineering curriculum accredited by EAC/ABET and must have been employed in the rank of assistant professor or higher.

### **Rule 9.7 Industrial Experience**

Industrial engineering experience should be directed toward the identification and solution of practical problems in the applicant's area of engineering specialization. This experience should include engineering analysis of existing physical systems and the design of new physical systems.

### **Rule 9.8 Design Experience**

The Board gives particular attention to design experience. The applicant should have meaningful experience under the supervision of a licensed professional engineer in designing systems, components, or processes that meet public need. This experience should include exposure to the formation of design problem statements and specifications, consideration of alternative solutions, feasibility considerations, and detailed systems descriptions.

### **Rule 9.9 Construction Experience**

Experience in construction supervision must include use of engineering skills in assuring compliance with specifications and design.

### **Rule 9.10 Evaluation of Experience – Surveying**

Work experience must be progressive and of an increasing standard of quality and responsibility. It should include field assignments, office assignments, researching records and property line surveying. An applicant for initial PS licensure (first licensure in any state) must have property line surveying experience for at least fifty percent (50%) of the minimum required experience.

Surveyor Intern applicants qualifying based solely on education shall not be required to submit experience verification documentation. Surveyor Intern applicants qualifying based on experience, or a combination of education and experience, will be required to submit experience verification form(s) from a Professional Surveyor supervisor sufficient



to verify the required amount of qualifying experience; a minimum of one (1) experience verification form is required.

### **Rule 9.11 Mentoring**

An applicant may acquire qualifying engineering experience through a mentoring arrangement. Two (2) years of qualifying mentoring experience acquired through a Board-approved mentoring arrangement equates to one (1) year of qualifying engineering experience.

The mentoring arrangement must have pre-approval by the Board. The applicant must submit a written proposal for a mentoring arrangement to the Board describing: the applicant's current employment status, description of job responsibilities, qualifications of the non-licensee supervising the applicant on a daily basis, biographical data of the mentoring PE, written certification from the mentoring PE agreeing to serve, proposed format of meetings. Meetings between the applicant and the mentoring PE must occur at least monthly.

Once the mentoring arrangement has been approved by the Board, it may begin. The applicant shall prepare a report of each meeting, a statement indicating whether or not it was responsible charge work and if the work was performed according to industry standards, and the mentoring PE's seal and signature. A copy of this monthly report shall be sent to the Board.

At the conclusion of the mentoring relationship, the mentoring PE shall provide a statement bearing his seal and signature recommending the applicant for licensure.

When the applicant submits his PE application, he shall submit in a separate binder a compilation of all the monthly reports, any notes, drawings, and miscellaneous items, and the original final statement of recommendation from the mentoring PE.

## **Part 901 Chapter 10: REFERENCES**

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### **Rule 10.1 Responsibility of Applicant for References**

The applicant shall furnish on his application the names, addresses, and if applicable, the states in which references are licensed as professional engineers or professional surveyors. It is the sole responsibility of the applicant to provide all reference information.

Reference forms which are signed and dated within the previous two (2) years may be transferred from a closed application to a new application at the applicant's request. However, applicants seeking initial licensure must submit at least one (1) reference form from their licensed supervisor dated within the past (6) six months, comity

applicants submitting an NCEES Record must submit at least one reference form dated within the past twelve (12) months from another licensee who has knowledge of the applicant's experience during the most recent twelve (12) months, and comity applicants who are not submitting an NCEES Record must submit at least one (1) reference form dated within the past six (6) months, from another licensee who has knowledge of the applicant's experience during the most recent six (6) months.

### **Rule 10.2 References' Qualifications**

At least three (3) of the five (5) references must be currently licensed; however, it is desirable that all the references be qualified to evaluate the applicant's training and experience. All references should know the applicant personally. A "referencing" Professional Engineer may be licensed in any state in the United States or in Canada or by the Japan PE/FE Examiners Council (JPEC), or other national licensing authorities as approved by the Board.

### **Rule 10.3 Reference Information Provided to the Board is Confidential**

The Mississippi Public Records Act of 1983 exempts recommendations respecting applications for a professional certificate; therefore, except for the amount of verified experience, all reference information is confidential and available only to the Board.

### **Rule 10.4 Reference Responsibility**

It is the responsibility of the licensee to provide an honest appraisal of applicants considered for enrollment or licensure.

### **Rule 10.5 Failure of a Reference to Respond**

The Board may find it necessary to correspond directly with a reference to seek clarification of the reference's statements. If any reference fails or declines to cooperate with the Board within a reasonable time, all information submitted by the reference may be disregarded.

Note: References are considered by the Board to include the Professional Engineer and Professional Surveyor who bore the responsibility for actual work experience.

## **Part 901 Chapter 11: EXAMINATIONS**

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### **Rule 11.1 Uniform National Examinations**

The Board uses examinations offered by the National Council of Examiners for Engineers and Surveyors (NCEES). These examinations have been developed by appropriate committees of NCEES, staffed by experienced, mature licensees under the

guidance of a nationally recognized evaluation organization and professional psychometricians. Each examination has been validated with regard to content, relevancy of problems, and scoring. The phrase “written examination” as used in the Law, is interpreted to include computer-based format examinations.

### **Rule 11.2 Benefits of Using Uniform National Examinations**

1. To draw upon the knowledge and proficiency of professional engineers in all branches of engineering, and of surveyors in the responsibilities relevant to the practice of surveying.
2. To help assure that Mississippi licensees are given equal consideration when seeking licensure in other states.
3. To establish and maintain greater public confidence in the administration of the examinations.

### **Rule 11.3 Classification of Engineering Examinations**

1. Fundamentals of Engineering - This is known as the FE examination. An applicant for enrollment as an Engineer Intern will be permitted to sit for the FE examination only after the Board has established that all requirements of the Law and Rules and Regulations have been met.
2. Principles and Practice of Engineering - This examination is known as the PPE examination and is offered by discipline. An applicant will be permitted to sit for the PPE examination only after the Board has established that all requirements of the Law and Rules and Regulations have been met.

### **Rule 11.4 Classification of Surveying Examinations**

1. Fundamentals of Surveying - This examination is known as the FS examination. An applicant for enrollment as a Surveyor Intern will be permitted to sit for the FS examination only after the Board has established that all requirements of the Law and Rules and Regulations have been met.
2. Principles and Practice of Surveying - This examination is known as the PPS examination. An applicant for licensure as a Professional Surveyor will be permitted to sit for the PPS examination only after the FS examination has been passed and the experience requirements and other requirements of the Law and Rules and Regulations have been met.
3. Mississippi Section - This examination is closed book examination prepared by the Board. It is offered to applicants in January, May, and September.

## **Rule 11.5 Dates**

Dates offered – Computer-based examinations are offered throughout the year while paper-and-pencil examinations are offered in April and October on dates set by NCEES. Dates are available from the Board office.

## **Rule 11.6 Disciplines offered**

The Principles and Practices of Engineering will be offered in all disciplines on the same schedule for which examinations are prepared and furnished by NCEES.

## **Rule 11.7 Language of the Examination**

The language of the examination will be English.

## **Rule 11.8 Study Information**

The Board does not distribute copies of questions used on prior examinations. NCEES does offer for sale books and booklets containing typical questions used on prior examinations which may be purchased directly from the National Council of Examiners for Engineering and Surveying. The address is:

National Council of Examiners for Engineering and Surveying (NCEES)  
Post Office Box 1686  
Clemson, South Carolina 29633-1686

## **Rule 11.9 Instructions for Examinees**

Instructions provided during the citation process prior to each examination will declare an examination to be open or closed book.

## **Rule 11.10 Authorized Materials in Examination Room**

With reference to authorized materials and devices in the examination room, current NCEES guidelines will be followed

## **Rule 11.11 Compliance with Examination Policies and Procedures**

Examinees shall abide by the examination administrator's published examination policies and procedures. An examinee who does not fully comply with the examination administrator's requirements may, in addition to any action by the Board, be subject to dismissal from the remainder of the examination.

1. Noncompliant Conduct in Association with Examinations. An examinee may be dismissed from the examination and subject to disciplinary or other Board action for conduct including, but not limited to:
  - a. Cheating on the examination;
  - b. Giving assistance to, or receiving assistance from, another person;

- c. Compromising the integrity of the examination;
- d. Disruptive or abusive behavior;
- e. Participating in any form of violation of examination policies or procedures during an examination.

2. Consequences of Noncompliant Conduct with Examination Policies and Procedures. Evidence of failing to comply with the examination administrator's policies and procedures subsequent to an examination may also be a cause for action by the Board. An examinee who does not fully comply with the examination administrator's policies and procedures during and after an examination will be subject to having their examination results invalidated and being prohibited from taking the examination(s) for a period of time as determined by the Board.

3. Pending, Approved and Endorsement Applications for Noncompliant Examinees. Any application for licensure pending or approved for examination may be denied and evaluated or re-evaluated pursuant to Board rules. Any licensure examination taken and passed in another state while barred from taking an examination in Mississippi will not be acceptable for licensure purposes in Mississippi.

## **Rule 11.12 Examination Opportunities**

*1. Examination opportunities for computer-based examinations* – For each application, the Board's official "approval" to take the examination expires after two (2) years. The applicant is allowed up to three (3) citations (opportunities) during each year to take and pass the examination. If the applicant is not successful by the end of the second year, the application is closed, and a new application must be submitted for Board approval.

*2. Examination opportunities for paper-and-pencil examinations except the Structural PE examination* – For the initial application, the applicant is allowed three (3) consecutive citations, that is, three (3) consecutive opportunities, to take the examination. The citations "count", whether the applicant actually takes the examination or not. If the applicant is not successful by the third citation, the initial application is closed.

To attempt the examination again, the applicant must submit a new application to be approved by the Board, and will be allowed only one (1) citation per application, subject to the restrictions below. For paper-and-pencil examinations, this one (1) citation "counts", whether the applicant actually takes the examination or not at the next offering of the examination.

An applicant having three (3) or more unsuccessful attempts of the same examination, regardless of the jurisdiction in which the examination is administered, must submit an

application to be readmitted to future administrations of the same examination. If readmitted by the Board, the applicant may take the examination no sooner than eleven (11) months following the most recent attempt.

3. With reference to the two (2) hour Mississippi Section PS examination, an applicant who cancels an examination which he has previously agreed to attend or who fails to appear on the day of the examination, shall not receive a refund of any examination fee already paid.

### **Rule 11.13 Examination Results**

Examination results will be supplied by first class mail to the address of record of each examinee.

### **Rule 11.14 Verification of examination results**

Verification of paper-and-pencil examination results by manual scoring is available by the National Council of Examiners for Engineering and Surveying (NCEES). A request for verification by manual scoring must be made in writing to the Board, accompanied by a seventy-five dollar (\$75.00) check made payable to NCEES, and must be submitted within sixty (60) days of release of the examinee's original results. The Board will review the request and submit it to NCEES. Once a request is received, NCEES will hand score and provide written notification to the Board regarding the results. No specific examinee comments will be addressed. Manual scoring of computer-based examinations is not available.

### **Rule 11.15 Examination for Record Purposes**

If needed for record purposes, any person already licensed by this Board, or another state board, may take the appropriate examination in the Fundamentals or Principles and Practice upon payment of the established fee and upon approval by the Board. In order for this request to be considered by the Board, a detailed letter of explanation regarding the reasons for taking the examination shall be submitted in accordance with Rule 3.3. Failure to pass an examination by a person licensed and practicing will in no way affect current licensure.

Be advised that the limitation on examination retakes, set in Rule 11.12, applies to "record purposes" applicants as well.

### **Rule 11.16 Credit for Passing the Principles and Practice of Surveying Examination**

A Surveyor applicant who passes one (1) of the required examinations, PPLS or the Mississippi Section, but fails the other, may retain credit for the examination which was passed indefinitely.

## Rule 11.17 Expiration of Enrollment

Enrollment as engineer intern or surveyor intern does not expire.

## Rule 11.18 Summary of Licensure Requirements

1. Engineer Intern - an applicant must have an ABET accredited B.S. degree in engineering, or a degree evaluated and found to meet the NCEES engineering education standard, or a B.S. degree in engineering, engineering technology, or a related science that is not ABET accredited *plus* a graduate degree in a curriculum that is ABET accredited at the undergraduate level, pass the Fundamentals of Engineering examination, and meet the other requirements of the Law and Rules and Regulations in order to be enrolled as an Engineer Intern.
2. Surveyor Intern – an applicant must met have one of the following pathways towards licensure:
  - a. Education Based - met one of the education options in Section 73-13- 77(2)(a)(i), (ii), (iii), or (iv) of the Law, passed the Fundamentals of Surveying examination, and met the other requirements of the Law and Rules and Regulations in order to be enrolled as a Surveyor Intern.
  - b. Experience Based - an applicant must have a high school diploma or equivalent, obtained eight (8) years of qualifying surveying experience verified by Professional Surveyor supervisor references, passed the Fundamentals of Surveying examination, and met the other requirements of the Law and Rules and Regulations in order to be enrolled as a Surveyor Intern.
3. Professional Engineer - an applicant must have met each of the following requirements:
  - a. Obtained an ABET accredited B.S. degree in engineering, or a degree evaluated and found to meet the NCEES engineering education standard, or a B.S. degree in engineering, engineering technology, or a related science that is not ABET accredited *plus* a graduate degree in a curriculum that is ABET accredited at the undergraduate level.
  - b. Passed the Fundamentals of Engineering (FE) examination or has earned a Doctor of Philosophy (Ph.D.) degree in engineering from a program that has an ABET accredited B.S. or M.S. degree program.
  - c. Obtained four (4) full years of qualifying engineering experience verified by PE references.
  - d. Passed the Principles and Practice of Engineering (PPE) examination.

e. Met all other requirements of the Law and the Rules and Regulations for licensure as a Professional Engineer.

#### 4. Professional Surveyor

a. Education Based: in accordance with Mississippi law and the Board regulations, an applicant must have met one (1) of the education and associated qualifying experience options in Section 73- 13-77(1)(a)(i), (ii), (iii), or (iv) of the Law, obtained the required amount of qualifying surveying experience verified by Professional Surveyor supervisor references, passed the Fundamentals of Surveying examination, passed the Principles & Practice of Surveying examination, and passed the Mississippi Section examination in order to be licensed as a Professional Surveyor.

b. Experience Based: in accordance with Mississippi law and the Board regulations, an applicant must have obtained twelve (12) full years of qualifying surveying experience verified by Professional Surveyor supervisor references, passed the Fundamentals of Surveying examination, passed the Principles & Practice of Surveying examination, and passed the Mississippi Section examination in order to be licensed as a Professional Surveyor.

## Part 901 Chapter 12: CLASSIFICATIONS

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### **Rule 12.1 Classifications of Licensure or Enrollment**

Applicants shall be licensed as "Professional Engineers" or "Professional Surveyors" or enrolled as "Engineer Interns" or "Surveyor Interns."

### **Rule 12.2 Disciplines of Engineering**

Mississippi Law makes no specific designations as to the disciplines of engineering practice for which Certificates of Licensure as Professional Engineer are issued; however, the Code of Professional Conduct provides that a professional engineer shall practice only in the disciplines in which he or she is qualified by education and experience.

## Part 901 Chapter 13: LICENSURE OR ENROLLMENT

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### **Rule 13.1 Licensure or Enrollment Number**

At the time an applicant is granted licensure or enrollment by the Board, he will be assigned a serial number. These numbers will be issued consecutively.

### **Rule 13.2 Notification of Licensure**

The Executive Director shall provide each licensee with the following:



1. A letter which includes the effective date, basis of licensure, an assigned serial number, and a statement that a certificate will be issued.
2. A copy of the Law and the Rules and Regulations of the Board.
3. A certificate which will be mailed to each licensee upon receipt of proof of seal.

### **Rule 13.3 Notification of Enrollment**

The Executive Director will provide each enrollee with the following:

1. A letter which includes the effective date, basis of enrollment, an assigned serial number, and the date of expiration of enrollment as an Engineer Intern or Surveyor Intern.
2. A Certificate of Enrollment.

### **Rule 13.4 Replacement or Duplication of Certificates**

A licensee in good standing may submit a written request for a new certificate. The payment of a fee is required.

## **Part 901 Chapter 14: SEALS**

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### **Rule 14.1 Seal of the Board**

The seal of the Board shall be circular in form, two (2) inches in diameter and shall be imprinted on all certificates issued by the Board. 30

### **Rule 14.2 Seal of the Licensee**

1. Upon completion of licensure, the licensee will be advised that he shall secure an official seal which shall be applied to engineering drawings, specifications, reports and other engineering or surveying documents prepared by him or under his responsible supervisory control. A copy of the seal imprint shall be furnished to the Board before the certificate of licensure will be released. Failure to provide proof of seal may result in disciplinary action by the Board.
2. The seals to be used by the licensees are to be circular in form and from 1 5/8 to 2 inches in diameter. A copy of the design is included in this publication.
3. Seals obtained prior to the adoption of this rule and which are in conformance with prior Board rules are acceptable.
4. Rubber stamps, which are identical to the approved seals, in size, design and content may be used by the licensee at his option.

## Rule 14.3 Seal on Documents

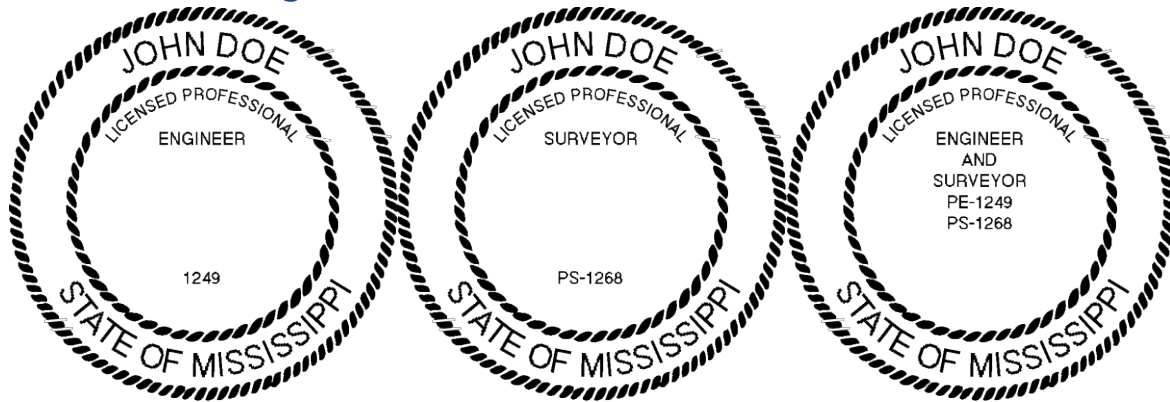
1. The seal, signature and date on a document constitute a certification that the document was prepared by the licensee or under his direct supervision.
  - a. Each sheet of plans, drawings, documents, specifications and reports for engineering practice and of maps, plats, charts shall be signed, sealed and dated by the licensee preparing them, prepared under his direct supervisory control, or reviewed by him in sufficient depth to fully coordinate and assume responsibility for documents prepared by another professional engineer.
  - b. Each sheet of maps, plats, charts, documents, and reports for land surveying practice shall be signed, sealed, and dated by the licensee preparing them or prepared under his direct supervisory control.
2. Where more than one (1) sheet is bound together in one (1) volume, the licensee who prepared such volume, or under whose direction and control such volume was prepared, may sign, seal and date only the title or index sheet, providing that the signed sheet clearly identifies all of the other sheets comprising the bound volume, and provided that any of the other sheets which were prepared by, or under the direction and control of, another licensee, be signed, sealed and dated by said other licensee.
3. Additions, deletions or other revisions affecting public health and safety or state and local codes may be made only if they are subsequently signed, sealed and dated by the licensee who made the revisions or under whose direction and control said revisions were made.

## Rule 14.4 Prototypical Projects

Documents prepared for projects that are designed by other engineers to be built in various locations with few changes, except site adaptation, may be sealed by a Mississippi licensee under the following conditions:

1. Written permission of the original engineer(s) to adapt the documents.
2. Each sheet of plans, drawings, documents, specifications and reports shall be signed, sealed and dated by the engineer who performed the original design and shall also be signed, sealed and dated by the Mississippi licensee who has reviewed the documents in sufficient depth to fully coordinate and assume responsibility.
3. Documentation of all changes made to the original documents.
4. The following written certification shall accompany the seal and signature on each sheet: "I have reviewed this document in sufficient depth to accept full responsibility for its contents and to assure code compliance and coordination."

## Rule 14.5 Design of Seal

*PE**PLS**Dual*

## Rule 14.6 Seal Care and Custody

The licensee shall exercise due and reasonable care in maintaining physical possession of his seal and its use. The licensee shall not willingly allow others to possess his seal or to use his seal.

## Part 901 Chapter 15: EXPIRATIONS AND RENEWALS

### Rule 15.1 Expiration Date

Certificates of licensure expire on the last day of the month of December.

### Rule 15.2 Notification of Expiration Certificate Date and Amount of Renewal Fee Required

Each licensee will be mailed a notice of the expiration date and the amount of the annual renewal fee. Such notice will be sent to the address of record by first class mail at least one (1) month prior to the expiration date.

The renewal fee is set by an order of the Board in accordance with and subject to the limitations of the statute.

### Rule 15.3 Annual Responsibility of Renewals

Certificates of licensure, and therefore the right to practice engineering or surveying, become invalid on the last day of the month of December unless renewed.

The responsibility for the annual renewal of a licensee's certificate rests solely with the individual licensee. Failure to receive a notice does not relieve a licensee from the duty of renewal of his certificate. Returning renewal fees in a timely manner is the responsibility of the licensee.

## **Rule 15.4 Penalty for Late Renewal**

The failure on the part of any licensee to renew his certificate annually in the month of December as required above, shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten percent (10%) for each month, or fraction of a month, that payment of renewal is delayed. The maximum fee for delayed renewal shall not exceed five (5) times the normal renewal fee. If a licensee fails to renew his certificate for six (6) months or more, the licensee shall be required to submit a new application, paying back fees and submitting proof of continuing professional competency compliance. If the certificate has expired for five (5) years or more, in addition to submitting a new application and proof of continuing professional competency compliance, re-examination in the Principles and Practice of Engineering or Surveying will be required. The re-examination requirements may be waived by the Board provided the applicant has continued to legally practice in another jurisdiction from the date of expiration of his certificate.

## **Part 901 Chapter 16: Certificate of Authority; use of terms.**

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### **Rule 16.1 Certificate of Authority required.**

1. Any firm, corporation, or partnership practicing or offering to practice engineering or surveying in the state of Mississippi must be licensed to practice with a Certificate of Authority from this Board.
2. This shall apply to a professional service corporation, a corporation, a partnership (including limited partnerships and limited liability partnerships), or a limited liability company. An individual licensee practicing in his own name as a sole proprietorship shall not be required to obtain a Certificate of Authority.
3. In order to qualify for an Engineering Certificate of Authority, the firm must designate at least one Mississippi-licensed Professional Engineer who is either a principal officer, partner, or the designated principal engineer of the firm with management responsibility for the firm's practice, and who makes significant technical or contractual judgments on behalf of the firm which would affect the firm's professional reputation and liability.
4. In order to qualify for a Surveying Certificate of Authority, the firm must designate at least one Mississippi-licensed Professional Surveyor who is either a principal officer or partner of the firm with management responsibility for the firm's practice, and who makes significant technical or contractual judgments on behalf of the firm which would affect the firm's professional reputation and liability.

5. A licensee who renders occasional, part-time or consulting services to a firm may **not**, for the purposes of this rule, be designated as being responsible for the professional services of the firm.
6. Application for a Certificate of Authority shall be made on a form prescribed by the Board with payment of the application fee. The Certificate shall be issued when the Board determines that all requirements in compliance with the rules and regulations of the Board have been met.
7. All certificates shall expire on December 31 of each year; at that time the certificate shall be renewable at a fee to be set by the Board. Late renewal is subject to a ten percent (10%) penalty per month that payment is delayed. After a certificate has expired for more than six (6) months, an application for re-registration shall be required.
8. If any of the information on the initial, or any subsequent renewal, application changes for the firm, the firm shall notify the board in writing within thirty (30) days of the change by filing an amended application.
9. The firm, corporation, or partnership shall be responsible for the conduct or acts of its agents, employees, officers, partners, members or managers operating or practicing under the Certificate of Authority. No individual practicing engineering or surveying services shall be relieved of responsibility for those services performed by reason of employment or other relationship with a firm, corporation, or partnership holding a Certificate of Authority.

### **Rule 16.2 Use of Words Engineer, Engineering, Surveyor, or Surveying**

Any person, firm, partnership, organization, corporation or other entity using the words "Engineer" or "Engineering" or "Surveyor" or "Surveying" or any modification or derivative thereof in its name or form of business activity except as authorized in the Law, or any person presenting or attempting to use the certificate of licensure or the seal of another, or any person who shall give any false or forged evidence of any kind to the Board or any member thereof in obtaining or attempting to obtain a certificate of licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall attempt to use an expired or revoked or nonexistent certificate of licensure, or who shall practice or offer to practice when not qualified, or any person who falsely claims that he is licensed under the Law, or any person who shall violate any of the provisions of the Law, shall be guilty of noncompliance with the Law.

## Part 901 Chapter 17: CODE OF PROFESSIONAL CONDUCT

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The licensee shall be forthright and candid in his statements or written responses to the Board or its representatives on matters pertaining to professional conduct.

### **Rule 17.1 Responsibility to the Public**

The licensee shall at all times recognize his primary obligation to protect the safety, health and welfare of the public in the performance of his work. If the licensee's employer or clients overrule his judgment concerning the safety, health and welfare of the public, he shall inform his employer or client of the possible consequences and, where appropriate, notify such other proper authority. It shall be the licensee's duty to report to the Board violations of the Rules and Regulations. Failure to do so may be construed as aiding and abetting the violator. Furthermore, the licensee should remove himself from the situation if, after advising the employer or client, there continues to be a concern regarding the safety, health, and welfare of the public.

### **Rule 17.2 Competency for Assignments**

1. The licensee shall undertake to perform assignments only when qualified by education or experience in the specific discipline involved. The licensee may accept an assignment requiring education or experience outside his area of competence, but only to the extent that his services are restricted to those phases of the project in which he is qualified. All other phases of such projects shall be performed by licensees who may be associates, consultants or employees, qualified in the specific disciplines involved.
2. The licensee shall avoid actions and procedures which, in fact, amount to aiding and abetting an unlicensed person to practice the professions.
  - a. The Professional Engineer shall not affix his or her signature, seal, or title block to any plan or document unless said plan or document was prepared by him, prepared under his direct supervisory control, or reviewed by him in sufficient depth to fully coordinate and assume responsibility for plans prepared by another licensed Professional Engineer.
  - b. The Professional Surveyor shall not affix his or her signature, seal, or title block to any plat or document unless said plat or document was prepared by him, prepared under his direct supervisory control, or reviewed by him in sufficient depth to fully coordinate and assume responsibility for plats or documents prepared by another licensed Professional Surveyor.
3. A Professional Engineer, if properly qualified by training, education and experience, may perform construction management services without obtaining any additional

license or certification, provided that the professional engineer does not perform any construction work on the project being managed.

### **Rule 17.3 Public Statements**

1. The licensee shall be completely objective and truthful in all professional reports, statements or testimony. He shall include all relevant and pertinent information in such reports, statements or testimony.
2. The licensee, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony.
3. The licensee will issue no statements, or criticisms or arguments on matters connected with public policy which are inspired or paid for by an interested party or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party or parties, on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the subject matter.

### **Rule 17.4 Conflict of Interest**

1. A conflict of interest is avoidable. A licensee shall not represent a client if the licensee's ability to consider, recommend, or carry out a course of action on behalf of the client could be adversely affected by the licensee's responsibilities to another client or to a third person or to the licensee's own interest, or the safety, health and welfare of the public.
2. The licensee shall not accept compensation, directly or indirectly, financial or otherwise, from more than one (1) party for services on the same project, unless the circumstances are fully disclosed to, and agreed to in writing, by all interested parties.
3. The licensee shall not solicit or accept, directly or indirectly, financial or other valuable considerations from material suppliers, equipment suppliers or any other vendors for specifying or recommending their products.
4. The licensee shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents or other parties dealing with the licensee's client or employer in connection with work for which he is responsible.
5. The licensee shall not solicit or accept a professional services contract which involves a governmental body on which the licensee, a principal, or officer of his organization serves as a member.

6. When a licensee is employed or otherwise engaged in a full or part-time position, he shall not use the advantages of his position to compete unfairly with other licensees.

7. A licensee serving in any official capacity, either part-time or full-time, as the engineer or surveyor for any county, city or other governmental body, Board or agency, where plans or documents must be submitted to him for review, approval or a recommendation for approval, cannot review, approve or recommend approval of his own plans or documents, or plans or documents prepared by any member of the firm of which he is a member.

### **Rule 17.5 Solicitation of Work**

1. The licensee shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, except when the licensee is securing salaried positions through employment agencies.

2. The licensee shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications. He shall not misrepresent or exaggerate his degree of 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 employer, employees, associates, joint ventures or his or their past accomplishments.

3. The licensee shall not indulge in publicity that is misleading or advertise in a self-laudatory manner.

4. The licensee shall not supplant, nor attempt to supplant, directly or indirectly, another professional engineer or professional surveyor in a particular engineering or surveying project, after contracts have been awarded to such other professional engineer or professional surveyor. The furnishing of informative brochures regarding the licensee's firm or employer is not considered an attempt to supplant.

5. A licensee, acting individually or through a firm, association, partnership or corporation shall neither request, propose, or accept an agreement, contract, or commission for professional services on a "contingency basis" under which his professional judgment may be compromised or when a contingency provision is used as an inducement to promote or secure an agreement, contract, or commission, either for future commissions or projects, or for performing additional services on the project involved.

6. The Professional Engineer, and the engineering firm, is to seek professional employment based primarily on the qualifications and competencies required for proper accomplishment of the work. This process restricts the Professional Engineer or firm from submitting a price for services until the prospective client has selected that



Engineer or firm, based primarily on stated qualifications and competencies, for final contractual negotiations.

Competitive price proposals may not be submitted or solicited for professional services unless all the following restrictions are met:

- a. The prospective client has first sought statements of qualifications from interested licensees, and
- b. A short-list of no more than five (5) licensees chosen by the client on the basis of qualifications and competence for proper accomplishment of the work received in writing a comprehensive and specific Scope of Work, and
- c. When the Scope of Work has been prepared, signed and sealed by a licensed Professional Engineer who has attested to the completeness and adequacy of the Scope of Work assuring that it fully identifies and describes the factors affecting the required engineering services, and
- d. Assurances have been given by the prospective client that factors in addition to price were considered in selecting the Professional Engineer, and
- e. Neither the Professional Engineer that sealed the Scope of Work, nor this Professional Engineer's firm, will be allowed to submit a price proposal.

7. The Professional Surveyor, and the surveying firm, is to seek professional employment based primarily on the qualifications and competencies required for proper accomplishment of the work. This process restricts the Professional Surveyor or firm from submitting a price for services until the prospective client has selected that Surveyor or firm, based primarily on stated qualifications and competencies, for final contractual negotiations.

Competitive price proposals may not be submitted or solicited for professional surveying services unless all the following restrictions are met:

- a. The prospective client has first sought statements of qualifications from interested licensees, and
- b. A short-list of no more than five (5) licensees chosen by the client on the basis of qualifications and competence for proper accomplishment of the work received in writing a comprehensive and specific Scope of Work prepared by the client or the client's representative that completely describes the factors affecting the required surveying services, and
- c. Assurances have been given by the prospective client that factors in addition to price were considered in selecting the Professional Surveyor.

## Rule 17.6 Ethics

The licensee shall contribute to the maintenance, integrity, independence and competency of the engineering or surveying profession as follows:

1. The licensee shall not violate any provision of Mississippi Law regulating the practice of engineering and surveying;
2. The licensee shall not participate, directly or indirectly, in any plan, scheme or arrangement attempting or having as its purpose the violation of any provision of the Law regulating the practice of engineering and surveying;
3. The licensee shall exercise reasonable care to assure that his partners, associates, and employees do not engage in conduct which, if done by him, would violate any provision of Law regulating the practice of engineering and surveying;
4. The licensee shall not engage in any illegal conduct involving moral turpitude;
5. The licensee shall not engage in any conduct that discredits or tends to discredit the profession of engineering or surveying;
6. The licensee shall not permit or allow himself, his professional identification, seal, firm, or business name, or his services to be used or made use of, directly or indirectly, or in any manner whatsoever, so as to make possible or create an opportunity for the unauthorized practice of engineering or surveying by any person, firm or corporation in this state;
7. The licensee shall not perform any acts, allow omissions or make any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever tend to create a misleading impression;
8. The licensee shall not knowingly associate with or permit or allow the use of his name, firm name or professional identification or seal in any business venture, project or enterprise which he knows or has reason to believe is involved in professional practices which violate any provision of the Law regulating the practice of engineering or surveying;
9. The licensee shall not knowingly associate with or permit the use of his name, professional identification, seal, firm or business name in connection with any venture or enterprise which he knows, or has reason to believe, involves trade, business or professional practice of a fraudulent, deceitful or dishonest nature;
10. The licensee shall not injure or attempt to injure the professional reputation of another licensee. This shall not relieve a licensee of the obligation to expose unethical or illegal conduct to the proper authorities or preclude an honest appraisal of licensees considered for employment;

11. The licensee shall not aid or abet, directly or indirectly, any non-licensee in the practice of engineering or surveying.

12. The licensee shall be personally and professionally responsible and accountable for the care, custody, control and use of the engineer's or surveyor's seal, his or her professional signature and identification. A seal which has been lost, misplaced or stolen shall, upon discovery of its loss, be reported immediately to the Board, which may invalidate the licensure number of said seal, if it deems this necessary, and issue another licensure number to said licensee.

13. The licensee shall not, directly or indirectly, use or make use of any property, facility or service of any governmental body, agency or department for the benefit of any private business or activity in which the licensee also may be engaged.

14. The licensee shall not, directly or indirectly, use or make use of any property, facility or service of his client or employer for his own benefit.

15. The licensee shall not practice or offer to practice engineering or surveying in any governmental jurisdiction in which to do so would be in violation of the Laws regulating the practice of professional engineering or professional surveying in that jurisdiction.

### **Rule 17.7 Character and Reputation**

The licensee shall be responsible for maintaining good character and reputation. Suspension of a certificate of licensure by another jurisdiction, becoming a habitual drunkard, being grossly immoral, or addicted in the use of narcotics, being finally adjudged insane, or incompetent by a court of competent jurisdiction or being convicted of a felony or misdemeanor shall be grounds for a disciplinary hearing which may result in revocation of his certificate of licensure.

### **Rule 17.8 Response to Orders and Communications**

A licensee's refusal to accept or receive, or a licensee's failure to timely respond to, (a) an order of the Board or (b) a request in writing from the Executive Director, the Board's attorney or a Board member, provided such request is made within the scope of responsibility of the writer, shall be considered misconduct subject to disciplinary action.

### **Rule 17.9 Current mailing address is required**

A licensee shall notify the Board in writing by mail, fax, or email within thirty (30) days of any change in the licensee's mailing address of record.

## Part 901 Chapter 18: DISCIPLINARY ACTIONS

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### Rule 18.1 Charges

For the purposes of this rule, "charge" refers to any allegation brought to the Board against a licensee or other person relating to a violation of the Law or the Rules and Regulations. Charges may be preferred by anyone who believes that a violation may have occurred.

1. Except as noted in item 3 below, all charges preferred must be made in writing by the person or persons making them and shall be filed with the Board.
2. All charges shall be made on forms prescribed by the Board, which are available from the Board. The information required includes the name and addresses of the complainant and the respondent, a concise statement of the complaint with facts supporting the allegation that a violation has occurred and a statement of the relief sought. The complainant shall sign the form.
3. In instances in which the Board is presented with prima facie evidence of a violation of the Law or the Rules and Regulations, a written statement of charges by the complainant will not be required.
4. No investigative action will be taken regarding submissions that are neither prima facie evidence nor accompanied by the written statement of charges.
5. Following the receipt of such charges or prima facie evidence, the Board will proceed to investigate and unless dismissed as frivolous, unfounded, or filed in bad faith, will proceed in accordance with the provisions of the statute involved, subject to the following limitation. Complaints must be filed within two (2) years of the date of the discovery of the violation but no later than six (6) years from the date of the violation itself.

### Rule 18.2 Investigative Procedures

Upon the filing of charges or information in accordance with Rule 18.1, the Executive Director shall refer them to a designated Board member. If the charges or information are first made by or through a Board member and if the Executive Director makes a determination that the Board member's objectivity is not impaired, the Executive Director will select that Board member as the designated Board member; otherwise, the designated Board member shall be selected on a rotating basis. If any Board member selected a designated Board member, whether by the bringing of charges or information or on a rotating basis, can show reasonable cause that he or she should not be the designated Board member, or if the Executive Director makes a determination that the Board member's objectivity is subject to a reasonable charge of being

impaired, then such charges or information shall be referred to the Board member next in line of rotation.

The designated Board member may institute an investigation of the charges and, after consultation with the Executive Director and the Board's attorney, determine whether to proceed with a letter of admonition, a consent order, an informal conference, or a formal disciplinary hearing.

Neither the designated Board member nor any Board member disqualified in the process of selecting the designated Board member shall sit as a member of the Board in any disciplinary hearing resulting from that investigation.

### **Rule 18.3 Disciplinary Proceedings**

1. Complaints, Summons, and Notice of Hearing - For the purposes of this rule, "complaint" refers to the formal documents issued by the Board to initiate a disciplinary hearing. The complaint is based on prior investigation of charges or information and shall set forth a statement of the charges against the accused.

For the purposes of this rule, "summons and notice of hearing" refers to the document accompanying the complaint which compels the respondent to appear and sets forth the time and place of the hearing.

The summons and complaint together with a copy of the applicable Law and Rules and Regulations shall be:

- a. mailed by licensed or certified mail, return receipt requested, to either the respondent's last known business or residence address or the most recent address of the accused on file with the Board, or
- b. personally served on the respondent, and
- c. provided not less than thirty (30) days prior to the scheduled date of the disciplinary hearing.

2. Consent Orders - If after receipt of a complaint and prior to the disciplinary hearing an accused desires to admit to a violation, a consent order may be entered into with the accused without the necessity of a disciplinary hearing. This opportunity for settlement shall be at the sole discretion of the investigative committee. Any consent order shall be subject to the approval of the Board and shall not be subject to appeal. The Board may reject a proposed consent order and vote to hold a formal disciplinary hearing.

3. Informal Conferences - The respondent may request an informal conference at the Board office with the investigative committee for the purpose of showing that the allegation(s) contained in the complaint is (are) not true. The investigative committee

will be composed of the designated Board member, the Executive Director, the Board attorney, and appropriate staff personnel; however, the absence of the designated Board member or the Executive Director or Board attorney shall not invalidate the formation of the committee or the conclusions of the conference. The respondent may have an attorney present only in an advisory capacity. If the respondent desires a conference and the complaint cannot thereafter be dismissed on the evidence, an effort will then be made to reach an informal settlement and consent order as provided in paragraph 2.

The informal conference or settlement negotiation shall be completed prior to a date ten (10) days before the scheduled date of the disciplinary hearing; provided, however, the Board's investigative committee, at its sole discretion, may continue the disciplinary hearing at the request of the respondent for the purpose of completing said proceedings.

### **Rule 18.4 Conflict and Bias**

A Board member shall not be entitled to participate in any disciplinary action if the Board determines that such a Board member is personally biased against the accused.

### **Rule 18.5 Respondent May Assert Bias**

Any accused in a disciplinary proceeding may assert conflict or bias by filing with the Executive Director at least three (3) days before the scheduled disciplinary hearing an affidavit asserting the disqualification together with specific details of the underlying factual bias for the assertion.

### **Rule 18.6 Disqualification**

The recusal or disqualification of Board members shall be considered on the record as a preliminary matter at the hearing before any other questions are decided. In the event that after said consideration there does not remain a quorum, substitute panel members shall be selected from the most recent slates of Board appointment candidates established by the Mississippi Engineering Society and the Mississippi Association of Professional Surveyors to the extent necessary to achieve a quorum. These substitute members shall receive compensation as provided for Board members in Section 73-13-9.

### **Rule 18.7 Pre-Hearing Discovery**

1. Pre-hearing discovery shall be permitted in accordance with this rule to the extent necessary to prevent fraud, conserve the Board's time, prevent undue surprise at hearing, protect persons from annoyance, embarrassment, or undue burden or expense, and promote the ends of justice.

2. All discovery shall be completed within thirty (30) days of the accused's receipt of the summons and complaint unless otherwise modified by the designated Board member for good cause.
3. The attorney for the Board or the accused may obtain discovery regarding any matter not privileged which is relevant to the subject matter of the pending action, whether it relates to the prosecution or the defense.
4. Discovery shall be had in strict accordance with such terms and conditions as may be imposed by the designated Board member, considering all the factors of each case.

### **Rule 18.8 Methods of Discovery**

Upon timely notice the following discovery may be allowed or ordered by the designated Board member.

1. Deposition upon oral examination under oath of any party, material witness or expert witness. The cost of such deposition shall be borne by the requesting party.
  - a. The requesting party shall give reasonable notice in writing to the other party, setting forth the name and address of each person to be examined and the time and the place for taking the deposition.
  - b. The deposition, if it is intended to be used at the hearing, shall be stenographically transcribed and certified as to its accuracy by the stenographer and the deponent. A true and correct copy of the transcript shall be forwarded to the other party upon written request, along with an invoice for the reasonable cost of copying and mailing same.
2. Written interrogatories to be answered in writing, under oath, by any party, material witness or expert witness.
3. Order for production and copying of documents and things and for entry upon land for inspection and other relevant purposes, by any party against any party or person.
4. Before an action is commenced, the Board may direct that the Board's attorney, or the Board's attorney may on his own initiative, conduct such preliminary discovery regarding any matter under investigation that the Board or the Board's attorney deems necessary and proper in order to perpetuate testimony or to otherwise prevent a failure or delay of justice. Such pre-action discovery methods shall be in conformance with those set out hereinabove. The product of such discovery may be used in any action involving the same subject matter subsequently brought before the Board.

### **Rule 18.9 Disciplinary Hearings**

1. Conduct of Hearing

- a. Hearing Examiner - The Board may, in its discretion, appoint some person to act as hearing officer at disciplinary hearings. In the event a hearing officer is appointed, such officer shall preside at the hearing and shall rule on all questions of evidence and procedure in accordance with the provisions of these rules.
- b. Plea - The accused shall either admit or deny the charges set forth in the complaint.
- c. Opening Statement - Each side shall be permitted to make a short opening statement.
- d. Form of Hearing - The Board shall present its evidence, followed by the accused, followed by such rebuttal as may be necessary and proper. Each witness called may be examined in the following manner:
  - 1) Direct examination
  - 2) Cross examination
  - 3) Re-direct examination
  - 4) Re-cross examination
- e. Closing Statement - Each side shall be permitted to make a short closing statement summarizing the evidence presented and urging the application of relevant Law to the evidence presented.
- f. Proposed Order - The Board may request one or both parties to submit within seven days for the Board's consideration a proposed order of the Board including findings of fact and conclusions of Law, a copy of which the submitting party shall mail to the other party. Underlying facts of record which support the findings should be cited. If the submitting party desires a written transcript of the hearing for the purpose of preparing such proposed order, that party must request same and pre-pay the cost of postage and the reasonable cost of transcription. In such event, the Board may request the proposed order to be submitted within ten days of the mailing of the transcript.
- g. Order - The Board shall issue an order not more than ninety days after the close of the hearing, which shall include findings of fact and conclusions of Law, stated separately. The accused shall be forwarded a copy of the order by certified or licensed mail, return receipt requested, and a copy shall be forwarded by first class mail to each attorney of record.
- h. Evidence - The Mississippi Rules of Evidence shall be used as a general guide for the presentation of evidence, however any evidence which reasonably appears to be



relevant to the issues of the case may be allowed notwithstanding its inadmissibility under said Rules, unless the evidence offered is clearly of a privileged nature.

i. Procedure - The Mississippi Rules of Civil Procedure shall be used as a general guide for the conduct of the proceedings, however formal adherence to said Rules shall not be mandated except as may be reasonably required to promote the ends of justice.

### **Rule 18.10 Discipline**

Upon a finding that the accused has violated any enumerated provision of Title 73, Chapter 13 or any rule adopted pursuant to Title 73, Chapter 13, the Board may censure; reprimand; admonish; require the completion of a course in ethics and additional education as approved by the Board; fine the accused; revoke or suspend the accused's licensure to practice as a Professional Engineer and Professional Surveyor or enrollment as an Engineer Intern or Surveyor Intern.

The Board may, in its discretion, temporarily stay the execution of its order conditioned upon any provision the Board deems just and proper under all the circumstances of each case.

In determining whether a licensure or enrollment should be revoked or suspended, and whether execution of the order should be stayed, and upon what conditions, the Board may consider all relevant factors, including, but not limited, to the following:

1. the severity of the violation(s);
2. the actual or possible danger to the public resulting from the accused's past and present violation(s);
3. the actual damage resulting from the accused's past and present violation(s);
4. the number of past repetitions of the accused's present violation(s);
5. the length of time since the occurrence of the accused's present violation(s);
6. the number and seriousness of previous violations;
7. the length of time the licensee has practiced;
8. the deterrent effect of the penalty imposed;
9. the effect of the penalty upon the accused's livelihood;
10. any efforts of rehabilitation; and
11. any other mitigating or aggravating circumstances.

### **Rule 18.11 Costs**

The Board may, in its discretion, assess and tax all actual costs incurred in a disciplinary hearing against any accused found guilty hereunder, or the charging party, or both.

### **Rule 18.12 Appeals**

Any person aggrieved by the action of the Board as a result of disciplinary proceedings conducted hereunder may appeal therefrom as provided for in Section 73-13-37(10) Mississippi Code Annotated (1972).

## **Part 901 Chapter 19: REINSTATEMENT OF LICENSURE OR CERTIFICATION AFTER REVOCATION**

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### **Rule 19.1 Application for Reinstatement**

Any person whose licensure or enrollment has been revoked may not apply to the Board for reinstatement of the licensure or enrollment until two (2) years have elapsed since the final, effective date of revocation, except a person convicted of a crime of moral turpitude in which case five (5) years shall have elapsed since the final effective date of revocation and the person's civil rights shall have been restored. In the application for reinstatement, the application should state why the licensure or enrollment should be reinstated. Applicant must include in the application evidence that the current requirements for licensure or enrollment have been met and that the applicant is in good standing with the Board.

### **Rule 19.2 Board Action**

Upon receipt of such application, the Board shall grant a hearing on reinstatement, at which time the applicant may appeal to the Board for reinstatement of the licensure or enrollment.

## **Part 901 Chapter 20: SEVERABILITY**

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### **Rule 20.1 Severability**

If for any reason any section, paragraph, clause or part of these Rules and Regulations of Procedure shall be held unconstitutional, or invalid, that fact shall not affect or destroy any other section, paragraph, clause or part of any rule or regulation not in and of itself invalid, but the remaining portion hereof shall be in force without regard to that so invalidated.

## Part 901 Chapter 21: STANDARDS OF PRACTICE FOR SURVEYING

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### Rule 21.1 Types of Surveys

Whenever a survey is performed, it shall comply with Section 73-13-71 (4) and Section 73-13-73 and the Standards of Practice for Surveying in Mississippi as described below. Types of surveys shall include, but not be limited to the following as described:

1. Boundary Survey, Route Survey, Easement Survey, and Lease Survey shall mean a survey, the primary purpose of which includes, but is not limited to, determining the perimeters of a parcel or tract of land by establishing or re-establishing corners, and monuments, for the purposes of describing, platting or dividing the parcel and preparing a description(s) of the parcel of land. If an easement is performed in conjunction with a boundary survey, lying adjacent and parallel, monumentation is not required. In the event that an easement survey is performed independent of a boundary survey, monumentation is required.
2. Topographic Survey shall mean a survey of the natural and selected man-made features of a part of the earth's surface by ground measurements or remote sensing to determine horizontal and vertical spatial relations.
3. Hydrographic Survey shall mean a survey having for its principle purpose the determination of data relating to bodies of water and which may consist of the determination of one or several of the following classes of data: depth of water and configuration of bottom, directions and force of current, water stages, and location of fixed objects for survey and navigation purposes.
4. Construction Survey shall mean the measurements made to control elevation, horizontal position and dimensions, and configuration, prior to or while construction is in progress.

### Rule 21.2 Attesting to Quality and Responsibility for Surveys

To provide the client with the assurance that the work was performed under the direct supervision of a licensee, and was performed to a certain standard, documentation shall be sealed and signed by the licensee in responsible charge, including, but not limited to, the following:

1. When a boundary, route, easement, or lease survey is performed, a plat shall be prepared, and the plat shall bear the seal and signature of the Professional Surveyor in responsible charge.

2. When a topographic survey, hydrographic survey or construction survey is performed at the request of a client, any plat, map or report that is the final product of that licensee for that project shall be sealed and signed by the Professional Surveyor or the Professional Engineer in responsible charge. If a topographic survey, hydrographic survey or construction survey is performed by a licensee to obtain data to be used by that licensee to perform calculations or to be incorporated into a final product of that project, then the final product of that project shall be sealed and signed by the Professional Surveyor or the Professional Engineer in responsible charge.

### **Rule 21.3 Requirements**

The boundary, route, easement, and lease survey plat shall conform to the following requirements and shall include the following information:

1. The plat shall be displayed on any reasonably stable and durable drawing paper, vellum, linen, or film of reproducible quality. No plat or map shall have dimensions of less than 8-1/2 x 11 inches.
2. The plat shall show the scale, area, and classification of the survey (A, B, C or D). These classifications are based upon both the purposes for which the property is being used at the time the survey is performed and any proposed developments which are disclosed by the client. This classification must be based on the criteria in Appendix A, and the survey must meet the minimum specifications set forth in Appendix B. Scale shall be sufficient to show detail for the appropriate classification.
3. The reference meridian used to conduct the survey shall be stated on the survey plat. A definitive north arrow shall be shown on the plat. All surveys will be referenced to a true meridian by accepted methods with the following exceptions: (a) those used in existing subdivisions; (b) those shown on city or town plats; or, (c) those shown on a previous survey when the current survey is a division of said previous survey and enough monumentation is available to establish the original orientation. If Global Positioning System equipment is used to obtain the reference meridian, it shall be stated on the plat whether the bearings are grid or geodetic. If any published horizontal control stations are occupied during the survey, they shall be listed on the plat and the horizontal datum used shall be listed on the plat. If a meridian established by the compass is used, the compass must be properly declinated and adjusted to a True Meridian. Regardless of the meridian used, the survey must be referenced to a well-defined line, group of monuments, reference points, etc. of a normally assumed permanent nature so the orientation of the survey can be re-established. This reference line and its relation to the meridian used must be clearly shown on the survey plat.

4. All monuments, natural and artificial (man-made), found or set shall be shown and described on the survey plat. The monuments shall be noted as found or set. All monuments set shall be ferrous metal, or contain ferrous metal, not less than one-half (1/2) inch in diameter, and not less than eighteen (18) inches in length. All monuments set shall display the license number of the Professional Surveyor, the COA number of the firm, or the name of the responsible government agency. All corners shall be monumented, either by a found monument clearly described on the survey plat, or by a monument set as described above, except however, a corner which falls in a creek, stream or ditch, in a gravel or asphalt road or upon solid rock, concrete or other like materials shall be marked in a permanent manner and clearly identified on the plat or witnessed by Witness Corners. Witness Corners shall be set whenever a corner monument cannot be set or is likely to be disturbed. Such witness corners shall be set as close as practical to the true corner and shall meet the same physical standards that would be required for the true corner. If only one (1) witness corner is set, it must be set on the actual boundary line or prolongation thereof. Otherwise, at least two (2) witness corners shall be set and so noted on the plat of the survey. The bearing and distance referencing the witness corners from the true corner shall be shown on the plat. If the witness corner is set on the boundary line, only the distance may be shown. Courses that intersect a creek, stream, ditch or the center of a public road that is to be used as a boundary of the parcel being surveyed, should have witness corners set on the line intersecting same, and be clearly shown on the plat. Concrete right-of-way markers may be acceptable as monuments on all roadways, streets, and utility rights-of-way, and maybe placed only at points where right-of-way width or direction change.
5. The plat of a metes and boundary survey must clearly describe and show the monument marking the commencing point and the point of beginning for the survey. Commencing Point is a well-defined, monumented point referenced to the U.S. Public Land (GLO) Survey system or other recorded subdivision plat, recorded and monumented City or County plat or map, compatible with Mississippi Statutes for filing and recording of land ownership that is used in a metes and bounds description. Point of Beginning is a well-defined monumented point referenced to the U.S. Public Land (GLO) Survey system or recorded subdivision plat, recorded and monumented City or County plat or map, compatible with Mississippi Statutes for recording land ownership that is used as the beginning and ending point in a metes and bounds land description.
6. All discrepancies between the survey and the record description, and the source of all information used in making the survey shall be indicated. When an inconsistency is found, including a gap or overlap, excess or deficiency, erroneously located

boundary lines or monuments, or when any doubt as to the location on the ground of the true boundary or property rights exists, the nature of the inconsistency shall be clearly shown on the drawing.

7. A description and location of any physical evidence of occupation found along a boundary line, including fences, walls, buildings or monuments.

8. The horizontal length (distance) and direction (bearing or azimuth) of each line as specified in the legal description and as determined in the actual survey process.

9. Four (4) elements of all circular curves shall be shown (radius, arc length, chord bearing and chord length).

10. When a property description is required by the client, the description prepared by the Professional Surveyor should list all pertinent information that is shown on the survey plat to include, but not limited to: commencing point, point of beginning, course bearing and distances, description of all corner monuments, description and offset of witness corners and basis of bearings.

11. The lot and block or tract numbers or other designations, including those of adjoining lots and tracts if the survey is within a recorded subdivision.

12. Visible encroachments onto or from adjoining property or abutting streets with the extent of such encroachment. No sub-surface encroachments are required to be located unless their existence and location is furnished to the surveyor by the client.

13. All public and private rights-of-way or easements which are observed, adjoining or crossing the land surveyed and pertinent to the survey.

14. Location of all permanent improvements pertinent to the survey, with reference to the boundaries.

15. Anytime State Plane Coordinates are used on a survey in the State of Mississippi, these surveys must be performed in compliance with state Law (Chapter No. 462, Senate Bill Number 2131, approved March 29, 1991) and in compliance with item (e) of this rule. State Plane Coordinates shall be clearly referenced to the appropriate horizontal datum on the plat. When State Plane Coordinates are used, the following information shall be shown on the plat: (1) the State Plane Coordinates System Zone, (2) the horizontal or vertical datum used, (3) the method used to derive information such as Global Positioning System or conventional survey, (4) all horizontal and vertical control points used (5) a combined or correctional factor, (6) the convergence angle., The coordinates of a minimum of two (2) reference points relevant to the survey shall be shown on the plat or map.

16. Regardless of the type of survey, a plat or survey shall bear the name, address, date of field survey, and signature and seal (either embossed or stamped) of the licensee in responsible charge. This signature and seal is certification that the survey meets the requirements of the Standards of Practice for Surveyors in Mississippi as adopted by the Mississippi Board of Licensure for Professional Engineers and Surveyors. Other regulations including the Manual of Instructions for the Survey of U.S. Public Lands and all subdivision Laws and regulations of the State of Mississippi Statutes shall be followed.

### **Rule 21.4 Enforcement**

Licensees failing to meet these standards of practice will be subject to appropriate disciplinary action by the Licensure Board.

## **Part 901 Chapter 22: CHANGES OR AMENDMENTS TO RULES**

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### **Rule 22.1 Changes or amendments to these rules**

Changes or amendments to these rules will be made as deemed necessary by the Board and will be adopted in accordance with the Administrative Procedures Act of the State of Mississippi.

## **Part 901 Chapter 23: CONTINUING PROFESSIONAL COMPETENCY**

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### **Rule 23.1 Continuing Professional Competency**

#### 1. Introduction

- a. The purpose of the continuing professional competency requirement (CPC) is to insure a continuing level of competency of Professional Engineers and Professional Surveyors in their respective fields of engineering and surveying practice.
- b. Every licensee shall meet the continuing professional competency requirements of these regulations for professional development as a condition for licensee renewal.

#### 2. Definitions - Terms used in this section are defined as follows:

- a. Professional Development Hour (PDH) – A contact hour (nominal) instruction or presentation. The common denominator for other units of credit.

- b. Continuing Education Unit (CEU) – Unit of credit customarily used for continuing education courses. One continuing education unit equals ten (10) hours of class in approved continuing education course.
- c. College Semester Or Quarter Hour – Credit for course in ABET-approved programs or other related college course approved in accordance with article 5 of this rule.
- d. Course/Activity – Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice in engineering and surveying.
- e. Licensee – A person who is licensed as a Professional Engineer or a Professional Surveyor.
- f. Dual Licensee – A person who is licensed as both a Professional Engineer and a Professional Surveyor.
- g. Renewal Period Year – January 1 to December 31 of each year.
- h. Board – The Board of Licensure for Professional Engineers & Surveyors.

### 3. Requirements

- a. Every Professional Engineer licensee is required to obtain fifteen (15) PDH units during the renewal period year.
- b. Every Professional Surveyor licensee is required to obtain twelve (12) PDH units during the renewal period year.
- c. Dual Licensees - The number of PDH units required shall be eighteen (18), at least one third (1/3) of which shall be obtained in each profession.
- d. As of January 1, 2010, every licensee shall be required to obtain one (1) PDH unit of Ethics training every two (2) years. After 2010, excess ethics PDH may not be carried forward.
- e. Professional Surveyors licensed in Mississippi are required to obtain training in Mississippi Standards of Practice. Professional Surveyors with five (5) years or less licensure in Mississippi are required to obtain one (1) PDH unit in Mississippi Standards of Practice annually. Professional Surveyors with more than five (5) years licensure in Mississippi are required to obtain one (1) PDH unit in Mississippi Standards of Practice biennially. Courses of surveying standards in other states may not be used to meet this requirement. However, standard courses from other states may be used as a portion of the licensee's remaining PDH. Excess Mississippi Standards PDH may not be carried forward.



f. If a licensee exceeds the annual requirement in any renewal period, PDH units may be carried forward into the subsequent renewal period as follows: a maximum of eighteen (18) PDH units by a Professional Engineer or Professional Surveyor licensee; a maximum of fifteen (15) PDH units by a Professional Engineer licensee; a maximum of twelve (12) PDH units by a Professional Surveyor licensee, with the exception of Ethics and Standards of Practice, in which case 3d and 3e will govern. PDH units may be earned as follows:

- 1) Successful completion of college courses.
- 2) Successful completion of continuing education courses.
- 3) Successful completion of correspondence, televised, videotaped, electronic and qualifying short courses.
- 4) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences.
- 5) Teaching or instructing in (1) through (4) above.
- 6) Authoring published papers, articles, or books.
- 7) Active participation in professional or technical societies, or active participation in educational outreach activities.

4. Units - The conversion of other units of credit to PDH units is as follows:

- a. One (1) College or unit semester credit hour 15 PDH
- b. One (1) College or unit quarter credit hour 10 PDH
- c. One (1) Continuing Education Unit (CEU) 10 PDH
- d. One (1) Hour of professional development in course work and seminars 1 PDH
- e. One (1) Hour of professional or technical presentations made at meetings, conventions, or conferences 1 PDH
- f. For teaching apply multiple of two (2)\*
- g. Each published paper, article, or book 10 PDH
- h. Active participation in professional and technical society.\*\* 1 PDH  
(One (1) PDH per organization with a maximum of three (3) PDH.)
- i. Active participation in educational outreach activities 1 PDH (maximum of three (3) PDH)

\* Teaching credit is valid for teaching a course or seminar for the first time only.

Teaching credit does not apply to full-time faculty.

\*\* Active participation will be defined as each member paying their annual dues.

5. Determination of Credit - The Board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit.

a. Credit for college or community college approved courses will be based upon course credit established by the college and approved by the Board.

b. Credit for qualifying seminars and workshops will be based on one (1) PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional or technical society meetings will earn PDH units for the actual time of each program.

c. Credit determination for activities 4.g., publishing paper, article, or book, is the responsibility of the licensee (subject to review as required by the Board), but shall not exceed ten (10) PDH units per renewal period year.

d. Credit for activity 4.h., active participation in professional societies, limited to one (1) PDH per organization with a maximum of three (3) PDH, requires that a licensee be an active member of the organization. PDH units are not earned until the end of each renewal period year.

e. No more than eight (8) PDHs obtained during a twenty-four (24) hour period will be applied towards meeting the continuing professional competency requirements.

6. Record keeping - The responsibility of maintaining records to be used to support credits claimed is the responsibility of the licensee.

a. Records required include, but are not limited to:

1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned;

2) attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or

3) records as maintained by the NCEES's CPC Tracking Program, NSPE's Professional Development Registry for Engineers & Surveyors, or other similar repositories;

b. These records must be maintained for three (3) years; copies may be requested by the board for audit verification purposes.

7. Exemptions - A licensee may be exempt from the professional development educational requirements for one of the following reasons:

- a. New licensees by way of examination or comity shall be exempt until the beginning of the next renewal period.
  - b. A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the professional development hours required during that year. Supporting documentation must be furnished to the Board.
  - c. Licensees experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the Board, upon request by the Board for audit verification purposes.
  - d. A Professional Engineer licensee sixty (60) years of age and having twenty (20) years of aggregate practice shall be exempt from the professional development educational requirement. A Professional Surveyor licensee sixty (60) years of age and having twenty (20) years of aggregate practice shall obtain at least one (1) PDH of Mississippi Standards of Surveying biennially, but shall be exempt from the remaining professional development educational requirement.
  - e. A Professional Engineer or Professional Surveyor currently in Retired Status.
8. Reinstatement - A licensee may bring a lapsed license to active status by obtaining the PDH units required for one (1) renewal period, which must include one (1) PDH unit of Ethics. Dual licensees bringing only one (1) license to active status is required to obtain only the PDH units required for the license being renewed. If the license being brought to active status is a Professional Surveyor's license, one (1) PDH unit of Standards of Practice must be obtained. A Professional Surveyor Re-licensure applicant who qualifies for the exemption of 7d above shall be required to obtain at least one (1) PDH of Mississippi Standards of Practice. All PDH units being claimed for reinstatement must have been acquired within the most current twelve (12) months.
9. Comity Out-of-Jurisdiction Resident - The CPC requirements for Mississippi will be satisfied when a non-resident certifies to be licensed in and having met the mandatory CPC requirements of the state of Mississippi.
10. Forms - All renewal applications will require a certification by the licensee that the CPC requirement for that year has been met. When renewing by mail, the licensee must certify and sign the continuing education form and submit it with the renewal application and fee.
11. Audits – Each licensee's Continuing Professional Competency records are subject to audit by the Board or its authorized representative.

## Part 901 CHAPTER 24: Declaratory Opinions

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### **Rule 24.1 Application of Chapter.**

This chapter sets forth the Board's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the Board's procedures regarding the disposition of requests as required by Mississippi Code §25-43-2.103.

### **Rule 24.2 Scope of Declaratory Opinions.**

The Board will issue declaratory opinions regarding the applicability to specified facts of:

1. a statute administered or enforceable by the Board,
2. a rule promulgated by the Board, or
3. an order issued by the Board.

### **Rule 24.3 Scope of Declaratory Opinion Request.**

A request must be limited to a single transaction or occurrence.

### **Rule 24.4 How to Submit Requests.**

When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the person must submit a printed, typewritten, or legibly handwritten request.

1. Each request must be submitted on 8-1/2" x 11" white paper.
2. The request may be in the form of a letter addressed to the Board or in the form of a pleading as if filed with a court. It must also specify to which profession the request is addressed to.
3. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
4. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
5. Each request must clearly state that it is a request for a declaratory opinion.

### **Rule 24.5 Signature Attestation.**

Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and

accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

### **Rule 24.6 Request Content Requirement.**

Each request must contain the following:

1. A clear identification of the statute, rule, or order at issue
2. The question for the declaratory opinion
3. A clear and concise statement of all facts relevant to the question presented
4. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number
5. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request

### **Rule 24.7 Limitations of Declaratory Opinions**

A declaratory opinion shall not be binding or effective for any third party or person other than the Board or Committee and the person to whom the opinion is issued and shall not be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

### **Rule 24.8 Reasons for Refusal of Declaratory Opinion Request.**

The Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

1. The matter is outside the primary jurisdiction of the Board;
2. Lack of clarity concerning the question presented;
3. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
4. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
5. The facts presented in the request are not sufficient to answer the question presented;
6. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;

7. The request seeks to resolve issues which have become moot or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;
8. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
9. The question presented by the request concerns the legal validity of a statute, rule, or order;
10. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
11. No clear answer is determinable;
12. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
13. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
14. The question is currently the subject of an Attorney General's opinion request;
15. The question has been answered by an Attorney General's opinion;
16. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
17. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or
18. The question involves eligibility for a license, permit, certificate or other approval by the Board or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

### **Rule 24.9 Board Response.**

Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Board shall, in writing:

1. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances

2. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or
3. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day on or after which the request is received by the Board.

### **Rule 24.10 Effect of a Declaratory Opinion.**

The Board will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the Board, and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Board shall be binding on the Board and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or concurrence beyond that set forth by the requesting person.

### **Rule 24.11 Availability of Declaratory Opinions and Requests for Opinions.**

Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by requestor name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

# CODE OF ETHICS

## Preamble

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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

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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

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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

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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

Mississippi Board of Licensure for Professional Engineers & Land Surveyors – Licensure Laws

<https://www.pepls.ms.gov/licensure-law>

Mississippi Board of Licensure for Professional Engineers & Land Surveyors – Rules & Regulations

[https://www.pepls.ms.gov/sites/pepls/files/PEPLS%202020/Licensure%20Law/PEPLS%20Rules%20and%20Regulations%201-1-2020%20\(3\).pdf](https://www.pepls.ms.gov/sites/pepls/files/PEPLS%202020/Licensure%20Law/PEPLS%20Rules%20and%20Regulations%201-1-2020%20(3).pdf)

Mississippi Code of 1972 Unannotated: Title 73 Professions and Vocations, Ch. 13 Engineers and Land Surveyors, (§73-13-1 to §73-13-43)

[https://www.pepls.ms.gov/sites/pepls/files/PEPLS%202020/Licensure%20Law/Law2019Final%20\(7%20%201%20%202019\).pdf](https://www.pepls.ms.gov/sites/pepls/files/PEPLS%202020/Licensure%20Law/Law2019Final%20(7%20%201%20%202019).pdf)

Mississippi Administrative Codes: Title 30 Professions and Occupations, Part 901 Rules and Regulations of the Mississippi Board of Licensure for Professional Engineers and Surveyors, (Ch. 1 Rule 1.1 to Ch. 23 Rule 23.1)

<https://www.sos.ms.gov/adminsearch/default.aspx>

National Society of Professional Engineers, Code of Ethics

<http://www.nspe.org/resources/ethics/code-ethics>