

STATE OF ALABAMA



BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

ADMINISTRATIVE CODE (Rules and Regulations)

including

RULES OF PROFESSIONAL CONDUCT (Code of Ethics)

see Rule 330-X-14

November 1998

AMENDED

Office of Executive Director Montgomery, Alabama 36130-4451 Telephone (334) 242-5568

ALABAMA STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

ADMINISTRATIVE CODE (Rules and Regulations)

TABLE OF CONTENTS

CHAPTER TITLE
330-X-1 Organization, Administration, and Procedure
330-X-2 Definitions
330-X-3 Applications
330-X-4 Fees
330-X-5 Curricula Approved by the Board
330-X-6 Experience
330-X-7 References
330-X-8 Examinations
330-X-9 Classifications and Branches of Engineering and Land Surveying
330-X-10 Licensure and Certification
330-X-11 Seals
330-X-12 Interim Permits
330-X-13 Expirations, Lapses, Renewals, and Continuing Professional Competency
330-X-14 Professional Conduct (Code of Ethics)
330-X-15 Compliance and Enforcement
330-X-16 Disciplinary Action
330-X-17 Severability
330-X-18 Amendment of Rules

Foreword:

These rules and regulations are issued under the authority of Section 35(a) in Article 2 of Chapter 11 of Title 34 of the Code of Alabama 1975. They cover specific requirements and procedures necessary for proper administration of the Alabama Law regulating the practice of engineering and land surveying. They supersede all previous administrative rules and regulations.

CHAPTER 330-X-1 ORGANIZATION, ADMINISTRATION AND PROCEDURE

330-X-1-.01 Purpose
330-X-1-.02 General Description of Organization and Operation
330-X-1-.03 Officers

330-X-1-.04	Employment of Personnel
330-X-1-.05	Executive Director
330-X-1-.06	Rules of Order
330-X-1-.07	Meetings
330-X-1-.08	Questions of Procedure and Evidence
330-X-1-.09	Voting
330-X-1-.10	Use of Forms
330-X-1-.11	Records
330-X-1-.12	Declaratory Rulings

330-X-1-.01 Purpose. The Alabama Board of Licensure for Professional Engineers and Land Surveyors was created to protect the public by helping to safeguard life, health and property, and to promote the public welfare by providing for the licensing and regulation of persons in the practices of engineering and land surveying. This purpose is achieved through the establishment of minimum qualifications for entry into the professions of engineering and land surveying, through the adoption of rules defining and delineating unlawful or unethical conduct, and through swift and effective discipline for those individuals or entities who violate the applicable laws or rules promulgated thereunder.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-1-.02 General Description of Organization and Operation. The Board is an independent agency of the State of Alabama. All costs of operating the Board, including administrative, secretarial, clerical, legal, and investigative are paid from legislative appropriation of monies collected by the Board. The Attorney General's Office provides for legal services to the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-15; Section 34-11-35; Section 34-11-36, Code of Alabama 1975)

330-X-1-.03 Officers.

(1) Election. The Board shall elect annually the following officers: Chair, Vice-Chair, and Secretary.

(2) Compensation and Expenses. Board Members shall be compensated on a per diem basis for days actually spent in performance of their duties and, additionally, members of the Board shall be reimbursed for all expenses incurred in performance of their duties as provided by Section 34-11-32 and Section 36-7-20 of the Code of Alabama 1975.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-32; Section 34-11-35; Section 36-7-20, Code of Alabama 1975)

330-X-1-.04 Employment of Personnel. The Board may employ investigators, attorneys, agents,

employees, and assistants, as may be necessary, to bring about and maintain the administration and enforcement of the Alabama Law regulating the practice of engineering and land surveying and these rules.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-15; Section 34-11-35; Section 34-11-36, Code of Alabama 1975)

330-X-1-.05 Executive Director. The Board shall employ an Executive Director who shall be responsible for the administration of Board policy. The Board may also employ an Assistant Executive Director. The Executive Director is designated as agent for the Board for service of legal process upon the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35; Section 34-11-36, Code of Alabama 1975)

330-X-1-.06 Rules of Order. All proceedings of the Board shall be governed by Roberts Rules of Order, latest revised edition, except during disciplinary hearings and except where otherwise provided in these rules.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-1-.07 Meetings.

(1) Meetings may be called by the Chair or by a quorum of the Board.

(2) Each member of the Board shall be given at least seven days notice of the time, place, and purpose of any regular or special meeting by the Chair or the Executive Director, unless such notice is waived by the individual member or unless such member is present at the called meeting.

(3) The Board shall hold at least two regular meetings each year and these meetings shall be held in Montgomery, Alabama. Special meetings may be called as necessary and may be held at any place agreed upon by a quorum of the Board.

(4) The Executive Director will ensure that reasonable notice to include time, date, and place is given to the public for all meetings.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-34; Section 34-11-35, Code of Alabama 1975)

330-X-1-.08 Questions of Procedure and Evidence. The Chair of the Board shall in accordance with these rules, and except as otherwise provided in these rules, rule upon all questions of procedure and, in the event that evidence is taken, on the admissibility of that evidence. The decision of the Chair shall be final.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-1-.09 Voting. All members of the Board, including the Chair, are entitled to vote and to make or second motions. A majority of those members of the Board present and voting on any matter shall decide that matter before the Board, except on procedural and evidentiary matters which are provided for in Rule 330-X-1-.08. The Chair shall vote as a member of the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-1-.10 Use of Forms. All applications and requests for which the Board has prescribed a form must be made on the prescribed form or in the format provided by the Board. Copies of forms in use and instructions for their completion are available from the Executive Director.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5, Section 34-11-9, Section 34-11-35, Section 41-22-4, Code of Alabama 1975)

330-X-1-.11 Records.

(1) Public record for the purpose of these rules means all Board records which are reasonably necessary to record the business and activities required to be done or carried on by the Board so that the status and condition of such business and activities can be known by the public. The results of disciplinary hearings are considered public records. Records which do not constitute public records include, but are not limited to, those received by a public officer in confidence, sensitive personnel records, licensee's records, examination material, applicant's records, application references, complaints against licensees and non-licensees, and records the disclosure of which would be detrimental to the best interests of the public.

(2) Public records are available for inspection at the Board office during regular business hours.

(3) Any person wishing to obtain copies of public records may request such copies from the Executive Director, and will be supplied copies upon payment of the cost of copying, handling and postage, which costs will be estimated and set by resolution by the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35; Section 34-11-37; Section 41-22-4(1) (c); Code of Alabama 1975)

330-X-1-.12 Declaratory Rulings.

(1) The Board may issue declaratory rulings to any person substantially affected by a rule with respect to

the validity of the rule, or with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Board, or with respect to the meaning and scope of any order of the Board. Such rulings shall be issued provided:

(a) The petitioner shows that he or she is substantially affected by the rule in question,

(b) Sufficient facts are supplied in the request to permit the Board to make a valid determination, and

(c) The request arises from an actual question or controversy.

(2) A petition for a declaratory ruling shall be submitted on a form provided by the Board.

(3) Such rulings will be made in accordance with the Alabama Administrative Procedure Act, Section 41-22-11, Code of Alabama 1975.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35; Section 41-22-11, Code of Alabama 1975)

**CHAPTER 330-X-2
DEFINITIONS**

330-X-2-.01 Definitions of Terms

330-X-2-.01 Definitions of Terms.

(1) Section 34-11-1, Code of Alabama 1975 provides for definitions of the following terms: Board, engineer or professional engineer, engineer intern, practice of engineering, land surveyor or professional land surveyor, land surveyor intern, practice of land surveying, practice and offer to practice, and responsible charge.

(2) The terms "consultation, testimony, investigation, evaluation, and planning" as used in the definition of the practice of engineering set forth in Section 34-11-1(7), Code of Alabama 1975, shall include, but are not limited to, services provided by testing laboratories involving the selection of proper tests to be performed (consultation and planning) when done for the purpose of developing design criteria or for the purpose of determining cause of failures (investigation) and analyses to provide recommendations for the foundation and materials to be used in the design or judgment which relate to the acceptability of structural or foundation construction (evaluation). Testing and inspection do not constitute the practice of engineering (1) when they are performed in accordance with previously written standards or specifications or satisfy the standards setting forth the methods and techniques to be followed by the testing agency and no judgement is required other than a comparison of the materials in place with the previously specified standards or (2) when testing or inspection data are collected in conformance with a specific standard.

Any attempt to determine the structural integrity or capacity of a building, or any sub-system thereof, other

than detection of problems by visual inspection or normal operation of the user's controls, constitutes the practice of engineering.

(3) The terms "direct control" and "personal supervision" as used in Section 34-11-1(9) will be construed by this Board to mean that the licensed professional engineer or licensed professional land surveyor providing such supervision was in responsible charge of the engineering or land surveying work, shall have made decisions on technical matters of policy and design and shall have exercised his or her professional judgment in all engineering or land surveying matters that are embodied in the design and the plans, specifications, land surveys, 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 or her seal, and/or signature, and date to the final documents, the licensee signifies compliance with the requirements of these definitions and the Rules of Professional Conduct (Code of Ethics) and accepts responsibility therefor.

(4) The term "gross negligence" as used in Section 34-11-11(a)(2), Code of Alabama 1975, shall mean the practice of engineering or land surveying by a licensee characterized by the reckless disregard for the rights, safety, or welfare of others, which could result in injury or damage to life or property or financial loss.

(5) The term "incompetency" as used in Section 34-11-11(a)(2), Code of Alabama 1975, shall mean the practice of engineering or land 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 he or she undertakes, or who is not qualified by experience and/or education to perform adequately and competently.

(6) The term "misconduct" as used in Section 34-11-11(a)(2), Code of Alabama 1975, shall mean the practice of engineering or land 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 land surveying.

(7) The term "principal officer" of the firm as used in Section 34-11-9, Code of Alabama 1975, shall also be construed to mean "principal engineer" or "principal land surveyor" which is defined as the senior technical person who is a licensed professional engineer or licensed professional land surveyor and who makes significant technical and/or contractual judgements on behalf of the firm which would affect the firm's professional reputation and liability.

(8) The term "Certification" when used in conjunction with the sealing of documents shall mean a statement signed, sealed, and dated by a licensed profes-

sional engineer or licensed professional land surveyor representing that the engineering or land surveying services addressed therein, as defined in Section 34-11-1, Code of Alabama 1975, have been performed by the licensed professional engineer or licensed professional land surveyor based on knowledge and information in accordance with commonly accepted procedures consistent with acceptable standards of practice, and is not a guaranty or warranty, either expressed or implied.

(9) The acronym NCEES as used in Chapter 330-X means the National Council of Examiners for Engineering and Surveying.

(10) The term "jurisdiction" shall mean any state, district, or territory of the United States.

(11) The term "Dual Licensee" shall mean a person licensed to practice as a professional engineer and professional land surveyor.

(12) The term "Inactive Licensee" shall mean a person who is totally separated from the professions of engineering or land surveying in Alabama.

(13) The term "Retired Licensee" shall mean a person who is totally retired and is no longer employed in any business or occupation in Alabama.

(14) The term "Lapsed License" shall mean a license that has not been renewed within a four year period.

(15) The term "Expired License" shall mean a license that has been lapsed for more than four years.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-1; Section 34-11-7; Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-3 APPLICATIONS

- 330-X-3-.01 Form of Application
- 330-X-3-.02 Reconsideration of Denied Applications
- 330-X-3-.03 Disposal of Applications

330-X-3-.01 Form of Application.

(1) All applications for licensure shall be made on a printed form or in the format provided by the Board and no applications made otherwise will be accepted. Applications must be clearly typewritten or computer printed in black ink and all questions must be accurately and thoroughly answered. An application not properly completed, containing all of the information required, or accompanied by the required fee will be returned with a statement of the reason for return.

(2) Applications for licensure as a professional engineer or as a professional land surveyor or for certification as an engineer intern or a land surveyor intern shall be subscribed and sworn to before a Notary Public or other persons qualified to administer oaths.

(3) The signature of the applicant on the application

form certifies the subscription to and the conformance with this Administrative Code of the Board including the Rules of Professional Conduct.

(4) All exam applications, application fees, and supporting documents must be received by the below listed deadlines. Applications and any information pertaining to the application received after the deadline will be deferred for review for the next regularly scheduled examination. It is the responsibility of the applicant to assure that all submissions are on file in the Board office prior to the deadlines that follow:

(a) Engineer intern - 60 days prior to the exam - application, application fee and examination fee.

(b) Land surveyor intern - August 1 or February 1 - application, application fee, experience verification forms, and educational transcripts.

(c) Professional engineer by examination and professional land surveyor by examination - August 1 or February 1 - application, application fee, reference forms, experience verification forms, educational transcripts and verifications of examinations in other jurisdictions.

(d) Professional engineer by comity - Board meeting agenda deadline - application, reference forms, experience verification forms, educational transcripts, verifications of examinations in other jurisdictions, application fee, and licensure fee.

(e) Professional land surveyor licensed in another jurisdiction - Board meeting agenda deadline - application, reference forms, experience verification forms, education transcripts, verifications of examinations in other jurisdictions, and application fee.

(5) Withholding information, misrepresentation, or untrue statements will be cause for denial of the application.

(6) Licensure as a professional engineer by comity is granted provided the applicant's qualifications meet the requirements of Chapter 11, Title 34, Code of Alabama 1975, which includes the required education, experience, and the passing of two Board approved eight-hour written examinations given by Alabama or another jurisdiction and the applicant is currently licensed as a professional engineer and in good standing within another jurisdiction.

(7) If a current, complete, properly executed National Council of Examiners for Engineering and Surveying, (NCEES), Record is provided the professional engineer or professional land surveyor applicant will be required to complete only the sections of the Alabama application form dealing with general information, licensure in other jurisdictions, and the affidavit.

(8) For all applicants other than those holding an NCEES Record, when there is a degree required, the Board requires an official transcript to be sent directly from each school where the applicant received an engineering, engineering technology, land surveying, land

surveying technology or related science degree. The transcript(s) must show degree(s) issued and date of issuance. It is the responsibility of the applicant to see that the transcript is sent directly from the institution to the Board office, and no action will be taken by the Board until such information is received. A graduate of a foreign institution will be required to have his or her transcript evaluated by an agency specified by the Board. In the event it is impossible to have a transcript sent directly from the institution to the Board, the Board reserves the authority to evaluate and accept a transcript received from a different source.

(9) If an applicant for examination or comity has been convicted of a felony and has had his or her civil rights revoked, the application can be approved for the professional examination, licensure, or certification until the civil rights of the person have been restored and then a unanimous approval of the board shall be required.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-35, Code of Alabama 1975)

330-X-3-.02 Reconsideration of Denied Applications.

(1) A denied application may be reconsidered by the Board if written notice of appeal is received by the Executive Director within thirty days after the applicant has been notified of the ruling of the Board.

(2) A hearing shall be held within a reasonable time after receipt of the notice of appeal, or at such time agreed upon by stipulation between the applicant and the Executive Director.

(3) At least a quorum of the Board must be present to hold a hearing.

(4) Evidence, including oral testimony, shall be freely admitted. The applicant shall be allowed to have counsel present if desired.

(5) The Board shall issue a final decision within thirty days of the date of the hearing, which shall include findings of fact and official action taken. The applicant shall be delivered a copy of the decision by first class mail.

(6) The decision of the Board may be appealed to the circuit court of Montgomery County, as provided in Code of Alabama 1975, Section 34-11-13, within thirty days of the decision of the Board.

(7) The record on appeal shall be certified by the Executive Director of the Board, and shall include the entire record including a transcript of the hearing, if a transcript is made.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-3.03 Disposal of Applications.

(1) Approved Applications - When the Board, after due consideration of an application and of information pertaining thereto, is satisfied that the applicant is eligible for certification as an engineer intern or land surveyor intern, or licensure as a professional engineer or professional land surveyor, under any section of the law, the applicant will be granted a certification or license, and the applicant will be notified by the Executive Director. The application and all pertinent information will be made a portion of the individual's permanent file kept by the board office in accordance with its retention of records procedures.

(2) Deferred Applications - If an applicant's experience is considered inadequate upon Board review, but the Board believes the minimum legal requirements may be met within one year, the application may be deferred by the Board for up to one year. The applicant will be advised of the basis for holding the application, and what additional information is required to be submitted.

(3) Denied Applications - When the Board, after due consideration of an application and of information pertaining thereto finds that the applicant is not eligible for certification or licensure under any section of the Law, the applicant will be denied certification or licensure. The applicant will be notified of the action of the Board by the Executive Director, and for further consideration the applicant may submit a new application, without fee, after securing the necessary eligibility, provided the resubmittal is within five years. An applicant, who is denied licensure or denied the opportunity to take an examination, has the opportunity to meet with the Board and/or to appeal the Board's decision as provided by Section 34-11-13 and Sections 41-22-12 through 41-22-21, Code of Alabama 1975.

(4) Inactive Applications - If all necessary information required for Board review is not received within six months after the application has been filed, the application will be placed in the inactive file and the applicant will be notified.

(5) Deferred, denied, and inactive applications will be maintained on file in the Board office in accordance with the Records and Retention Schedule prepared by the Department of Archives and History.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-4 FEES

- 330-X-4-.01 Method of Payment
- 330-X-4-.02 Application, Certification and Licensure Fees
- 330-X-4-.03 Examination Fees
- 330-X-4-.04 Fees Not Refundable

- 330-X-4.05 Renewal Fee
- 330-X-4.06 Roster

330-X-4-.01 Method of Payment. Fees shall be payable to the Professional Engineers and Land Surveyors Fund. Payment of fees should be made by checks (personal, company or cashier's) or money orders. No cash, credit cards or money transfers will be accepted as payment of fees. Applications not accompanied by the proper fee will be returned to the applicant.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-36, Code of Alabama 1975)

330-X-4-.02 Application, Certification and Licensure Fees.

(1) The application, licensure, and renewal fees for professional engineers, professional land surveyors, engineer interns, and land surveyor interns shall be set by the Board, as provided by Section 34-11-5, Code of Alabama 1975.

(2) The application and renewal fees for certificates of authorization for a corporation, partnership, or firm shall be set by the Board, as provided by Section 34-11-5, Code of Alabama 1975.

(3) The fee for an interim permit shall be set by the Board, as provided by Section 34-11-4(1)b, Code of Alabama 1975.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-35, Code of Alabama 1975)

330-X-4-.03 Examination Fees.

(1) The examination fee for all examinations will be set by the Board.

(2) The fee for regrading of an examination will be the same fee as that charged by the National Council of Examiners for Engineering and Surveying (NCEES).

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

330-X-4-.04 Fees Not Refundable. No fee, or part of any fee, paid by any applicant for application, examination or licensure will be returned to the applicant, in the event of withdrawal of the application, denial of the application, or failure to take or pass the examination.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-35, Code of Alabama 1975)

330-X-4-.05 Renewal Fee. The renewal fees shall

be set by the Board. Renewal will be annually or biennially as established by the policies of the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-8; Section 34-11-35, Code of Alabama 1975)

330-X-4-.06 Roster. The fee for a copy of the roster shall be set by the Board. Persons licensed or certified by the Board, governmental agencies, libraries, or professional societies will be provided a copy upon request without charge.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-3; Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-5 CURRICULA APPROVED BY THE BOARD

330-X-5-.01 Curricula Approved by the Board

330-X-5-.01 Curricula Approved by the Board. The following educational requirements are specified in accordance with the Licensure Law which provides that the Board may approve schools, colleges, or universities in determining educational qualifications.

(1) When considering applicants who are graduates of programs from a school, college, or university located within the United States and its jurisdictions the following will apply:

(a) The term "a graduate of an approved engineering curriculum" shall mean a graduate of an engineering program accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET) at the time of graduation or within a two year period of graduation. This term shall also mean a graduate of a master or doctoral degree program offered by a school or college of engineering offering at least one EAC/ABET baccalaureate engineering program provided the school or college of engineering has petitioned the Board for approval for this degree and the Board has granted this approval.

(b) The term "graduate of an unapproved engineering curriculum" shall mean a graduate of an engineering program which has not been accredited by EAC/ABET but has been accredited by a regionally accredited commission and is approved by the Board.

(c) The term "graduate of an approved engineering technology curriculum" shall mean a graduate of a four year engineering technology program accredited by the Technology Accreditation Commission (TAC) of the Accreditation Board for Engineering and Technology (ABET) at the time of graduation or within a two year period of graduation.

(d) In considering professional engineer applicants

under Section 34-11-4(1)a3 and engineer intern applicants under Section 34-11-4(2)b2 of the Licensure Law, the term "graduate of a related science curriculum" shall mean a graduate of a four year physics, mathematics, or other program which the Board may determine is related to engineering from a school or college which has been accredited by a regionally accredited commission.

(e) In considering land surveyor applicants under Section 34-11-4 (3)(a)(4) of the Licensure Law, the term "graduate of a school or college approved by the Board" shall mean a graduate of a four year civil, mining or surveying engineering program accredited by EAC/ABET at the time of graduation or within a two year period of graduation.

(f) The term "graduate of an approved land surveying curriculum" shall mean a graduate of a land surveying curriculum of four years or more including a minimum of 30 semester hours or 45 quarter hours of surveying courses from a school or college approved by the Board.

(g) The term "graduate of an approved curriculum related to surveying" shall mean a graduate of a curriculum related to surveying of four years or more including a minimum of 15 semester hours or 22.5 quarter hours of surveying courses from a school or college approved by the Board.

(h) In considering professional land surveyor applicants under Section 34-11-4(3)a3 and land surveyor intern applicants under Section 34-11-4(4)b2 of the Licensure Law, the term "graduate of a related science curriculum" shall mean a graduate of a four year mathematics or other program which the Board may determine is related to land surveying from a school or college which has been accredited by a regionally accredited commission.

(2) When considering engineering applicants who are graduates of engineering programs from a school, college or university outside of the United States and its jurisdictions, the Board will evaluate and approve the degrees on an individual basis.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-4; Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-6 EXPERIENCE

330-X-6-.01 Qualifying Experience

330-X-6-.02 Nonqualifying Experience

330-X-6-.01 Qualifying Experience. In evaluating experience offered as qualifying experience under Section 34-11-4 (1), (2) and (3), Code of Alabama 1975, the Board will take into consideration the following:

(a) Experience must be progressive and of an in-

creasing standard of quality and responsibility and usually follows graduation.

(b) Professional land surveyor applicants without a degree must present evidence that they have become self-educated in land surveying. Experience for all land surveyor applicants usually is gained under the supervision of a licensed professional land surveyor. Verification of experience usually will be by the licensed professional land surveyor supervisor or a licensed professional land surveyor associate. It is the responsibility of the applicant to have the verification forms provided in the application package completed and returned directly to the Board by the endorser. See Rule 330-X-3-.01(4).

(c) Professional Engineer applicants will usually gain experience by working under the supervision of a licensed professional engineer. Experience may also be gained by working with a licensed professional engineer who closely observed the applicant's work as an associate within the same company and the same location. Verification of experience must be by the licensed professional engineer supervisor, the licensed professional engineer associate, or in some other relationship that assures the Board that the experience received is substantially equivalent to supervision under a licensed professional engineer. It is the responsibility of the applicant to have the verification forms provided in the application package completed and returned directly to the Board by the endorser. See Rule 330-X-3-.01(4).

(d) Concurrent time, that is time spent in engineering or land surveying work while attending school, can only be credited as education experience or work experience but not as both.

(e) Experience claimed on the engineer intern or professional engineer application as engineering experience cannot be claimed as land surveying experience on the land surveyor intern or professional land surveyor application. Experience claimed on the land surveyor intern or professional land surveyor application as land surveying experience cannot be claimed as engineering experience on the engineer intern or professional engineer application.

(f) Military experience, to be creditable, must have been spent in engineering work or land surveying work and be of a character equivalent to that required in the civilian sector in like work.

(g) 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 catalog or a similar publication will not be considered engineering experience.

(h) Successful completion of graduate study in an engineering curriculum leading to a master's degree in engineering in a program whose undergraduate or graduate degree is accredited by EAC/ABET may be

credited as one year of engineering experience. Successful completion of a Ph.D. in engineering after completion of a master's degree may be credited for an additional year of experience. Successful completion of graduate study in a land surveying curriculum leading to a master's degree in land surveying in a program whose undergraduate or graduate degree is accredited by the Related Accreditation Commission of ABET may be credited as one year of surveying experience. Successful completion of a Ph.D. in land surveying after completion of a master's degree may be credited for an additional year of experience. If the Ph.D. in engineering or land surveying is obtained without the master's degree, the credit for experience will be two years.

(i) For teaching experience to be creditable, the engineer applicant must have taught in a four year engineering or engineering technology curriculum accredited by ABET and must have been under the supervision of a licensed professional engineer. For teaching experience to be creditable as land surveying experience, the land surveyor applicant must have taught in a land surveying or land surveying technology curriculum approved by the Board and must have been under the supervision of a licensed professional land surveyor.

(j) Engineering experience leading to licensure as a licensed professional engineer 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 systems or structures or the design of new systems or structures and under the supervision of a licensed professional engineer.

(k) Experience in construction supervision in order to be qualifying must include use of engineering skills in assuring compliance with specifications and design.

(l) Experience must not be anticipated. The experience must have been received before the time the application is submitted.

(m) Land surveying experience must be progressive and must include experience in property conveyance/boundary line determination, field work, office work, and legal/courthouse research.

(n) Experience prior to graduation is evaluated by the Board on a case by case basis. Normally the maximum time allowed is six months.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-4; Section 34-11-35, Code of Alabama 1975)

330-X-6-.02 Nonqualifying experience.

(1) Experience must not have been obtained in violation of the Licensure Law.

(2) The Board will not accept the mere execution as a contractor of work designed by a licensed professional engineer, or the supervision of the construction

of such work as a foreman or superintendent as qualifying engineering experience.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-4; Section 34-11-14; Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-7 REFERENCES

- 330-X-7-.01 Statement of Policy
- 330-X-7-.02 References
- 330-X-7-.03 Confidentiality of Reference Replies

330-X-7-.01 Statement of Policy.

(1) The applicant should give serious attention to the selection of references.

(2) The licensed professional engineers or licensed professional land surveyors under whose direct control and personal supervision the applicant has worked should normally be named as references.

(3) Any Board Member may request a Board Member, a staff employee or others, to make an independent inquiry or investigation of the applicant's qualifications and report the findings.

(4) Additional references may be required by the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-7-.02 References.

(1) The applicant shall furnish on the application for licensure five reference names, their addresses and if licensed, the jurisdictions in which they are licensed.

(2) If applying for engineer licensure, a minimum of three of the five references must be currently licensed professional engineers; however, it is desirable that all the references be licensed professional engineers who are qualified to evaluate the applicant's engineering training and experience.

(3) If applying for land surveyor licensure, a minimum of three of the five references must be currently licensed professional land surveyors, who are qualified to evaluate the applicant's land surveying training and experience.

(4) All references should know the applicant personally and should be able to issue judgements concerning the applicant's experience, ability, character and reputation.

(5) Accurate statements of fact from responsible references covering the applicant's experience are necessary.

(6) References received more than one year prior to Board review are not acceptable.

(7) A current member of the Board cannot serve as a reference for an applicant.

(8) The Board may find it necessary to correspond directly with a reference to seek clarification or amplification of the reference's responses on the form submitted. If the reference fails or declines to furnish the necessary information within a reasonable time, all information submitted by that reference may be disregarded in consideration of the application involved.

(9) It is the responsibility of the applicant to have the reference forms completed that are provided in the application package. The endorsers must return these forms directly to the Board office. See Rule 330-X-3-.01(4).

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-35, Code of Alabama 1975)

330-X-7-.03 Confidentiality of Reference Replies. Those replies received from references regarding the qualifications of an applicant shall be included as records which do not constitute public records as provided for in Rule 330-X-1-.11, and such replies will be held confidential.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-8 EXAMINATIONS

- 330-X-8-.01 Classifications of Examinations
- 330-X-8-.02 Eligibility for Examination
- 330-X-8-.03 Examination Dates and Locations
- 330-X-8-.04 Examinations in the English Language
- 330-X-8-.05 Study Information
- 330-X-8-.06 Instructions for Examination
- 330-X-8-.07 Examination Offerings
- 330-X-8-.08 Examination Results
- 330-X-8-.09 Review of Failed Examination
- 330-X-8-.10 Examination for Record Purposes

330-X-8-.01 Classifications of Examinations. Written examinations as required by the Alabama Law will be classified as follows:

(a) Examination in the Fundamental Engineering Subjects - FE Exam - Exam I, one day, eight-hour National Council of Examiners for Engineering and Surveying (NCEES) Exam

(b) Examination in the Principles and Practice of Engineering - PE Exam - Exam II, one day, eight-hour NCEES Exam

(c) Examination in the Fundamentals of Land Surveying - FLS Exam - Exam I, one day, eight-hour NCEES Exam

(d) Examination in the Principles and Practice of Land Surveying - PLS Exam - Exam II, one day, six-hour NCEES Exam

(e) Alabama Land Surveying Standards, History, and Law - ALSS - Exam III, two-hour Alabama Exam
Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

330-X-8-.02 Eligibility for Examination.

(1) Engineer applicants will not be scheduled to take Exam II until Exam I has been passed. Land Surveyor applicants will not be scheduled to take Exam II and Exam III until Exam I has been passed.

(2) No candidate may take the eight-hour engineer examination in the Principles and Practice of Engineering nor the sixteen hours of examinations in land surveying until the Board has established his or her eligibility for examination.

(3) Candidates for the eight-hour examination in the Fundamentals of Engineering may be notified of the next scheduled examination without Board action provided the proper application has been filed and the correct fee paid.

(4) A new examination candidate, if approved to take the examination, is approved for four examination attempts. The number of attempts approved for candidates who have attempted the same examination in another jurisdiction will be decreased by the number of attempts taken previously.

(5) New candidates who have attempted and failed to pass an examination in four attempts in other jurisdictions will be required to follow the procedures for closed applications as outlined in Section 330-X-8.07(c).

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-8-.03 Examination Dates and Locations.

(1) Written examinations for the FE, PE, FLS, and PLS are offered on dates set by NCEES. The written examination for the ALSS is offered on dates set by the Board.

(2) Locations at which the examinations are given are designated by the Board and this information will be available at least two weeks before the examinations.

(3) The seating capacity in certain exam locations is limited. If an exam location capacity is reached, the applicant may be reassigned to another exam location.

(4) The Board reserves the right to schedule examinees to another location if there are insufficient applicants or other problems for an exam location.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

330-X-8-.04 Examinations in the English Lan-

guage. All examinations will be in the English language.

Effective date: September 10, 1982

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-8-.05 Study Information. Questions used on prior examinations will not be distributed by the Board. Order forms are available, upon request, for ordering typical questions from NCEES. Information on the history of land surveying in Alabama and Alabama Law applicable to land surveying is available as specified by the Executive Director of the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-8-.06 Instructions for Examination. Instructions provided prior to each examination will furnish information regarding whether the examination is open, closed, or limited reference book. On an open book examination, textbooks and bound classroom manuals are permitted. On a limited reference examination, the only reference material allowed will be furnished. Calculators will be limited to those which are self powered, handheld, and nonprinting which can perform only simple programmable calculations and have no word processing capabilities. More specific instructions will be provided prior to the examination or at the examination site.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

330-X-8-.07 Examination Offerings.

(1) An applicant successfully qualifying for an examination will be notified at least thirty days in advance of the examination for which the exam fee has been paid.

(a) Should the applicant fail to take the examination offered or fail to pass the examination, the applicant must file a request for reexamination and pay the examination fee as set by the Board. Should the applicant fail to take the examination or fail to pass the examination applied for, the fee paid is not refundable.

(b) In the event an applicant fails to pass the examination after the approved number of attempts, the applicant will be notified that the application has been closed.

(c) If an application is closed, in order to be considered for further examinations, an applicant must file a new application, pay the application fee and submit evidence of additional education which may permit the applicant to qualify for further examinations. No transcripts or additional references will be required. The number of attempts approved will be based on the type and amount of additional education obtained and the

330-X-8-.02 Eligibility for Examination.

(1) Engineer applicants will not be scheduled to take Exam II until Exam I has been passed. Land Surveyor applicants will not be scheduled to take Exam II and Exam III until Exam I has been passed.

(2) No candidate may take the eight-hour engineer examination in the Principles and Practice of Engineering nor the sixteen hours of examinations in land surveying until the Board has established his or her eligibility for examination.

(3) Candidates for the eight-hour examination in the Fundamentals of Engineering may be notified of the next scheduled examination without Board action provided the proper application has been filed and the correct fee paid.

(4) A new examination candidate, if approved to take the examination, is approved for four examination attempts. The number of attempts approved for candidates who have attempted the same examination in another jurisdiction will be decreased by the number of attempts taken previously.

Effective date: September 10, 1982.
Last amendment effective: January 14, 2002.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-8-.07 Examination Offerings.

(1) An applicant successfully qualifying for an examination will be notified at least thirty days in advance of the examination for which the exam fee has been paid.

(a) Should the applicant fail to take the examination offered or fail to pass the examination, the applicant must file a request for reexamination and pay the examination fee as set by the Board. Should the applicant fail to take the examination or fail to pass the examination applied for, the fee paid is not refundable.

(b) In the event an applicant fails to pass the examination after the approved number of attempts, the applicant will be notified that the application has been closed.

(c) If an application is closed, in order to be considered for further examinations, an applicant must file a new application, listing experience gained since the previously filed application, and pay the application fee as required by law. No transcripts, additional references or verifications will be required. The applicant must meet the eligibility requirements of the current Law and Administrative Code.

(d) In the event the requalified applicant again fails to pass the examination after four (4) additional attempts, the application will be closed and the procedure as outlined in (c) above would then be repeated before further consideration would be afforded the applicant.

(e) An application will be considered valid and retained on file for a period of five years. After the failure of the number of approved attempts or five years, whichever occurs first, an application will be closed and the applicant will be required to follow the procedure outlined in (c) above for reapplication.

Effective date: September 10, 1982.
Last amendment effective: January 14, 2002.

(Auth: Section 34-11-5; Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

330-X-8-.09 Review of Failed Examination. An applicant who fails an examination which contains essay questions may request to be allowed to review his or her examination within 30 days after notice of result of the examination has been mailed. The review must be done in the office of the Board under the supervision of a staff member and in accordance with Board policy. Only the essay portion of the examination will be allowed to be reviewed.

Effective date: September 10, 1982.
Last amendment effective: January 14, 2002.

(Auth: Section 34-11-35, Code of Alabama 1975)

AMENDED

education must be related to the exam to be taken. Self-study is not considered acceptable as additional education. If approved, the applicant will not be eligible to take the examination for approximately one year from the date of the last exam attempted.

(d) In the event the requalified applicant again fails to pass the examination after the number of approved additional attempts, the application will be closed and the procedure as outlined in (c) above would then be repeated before further consideration would be afforded the applicant.

(e) An application will be considered valid and retained on file for a period of five years. After the failure of the number of approved attempts or five years, whichever occurs first, an application will be closed and the applicant will be required to follow the procedure outlined in (c) above for reapplication.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

330-X-8-.08 Examination Results. Examination results will be approved by the Board. The passing score on each NCEES examination will be determined by the Board, based on NCEES's recommendation. Passing numerical scores will not be reported; however, applicants will be given their numerical failing score.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-8-.09 Review of Failed Examination. An applicant who fails an examination may request to be allowed to review his or her examination within 30 days after notice of result of the examination has been mailed. The review must be done in the office of the Board under the supervision of a staff member and in accordance with Board policy.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-8-.10 Examination for Record Purposes.

(1) Any engineer licensed by this Board may take for record purposes the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination prepared by NCEES upon payment of a fee as established by the Board.

(2) Any land surveyor licensed by this Board may take for record purposes the Fundamentals of Land Surveying and the Principles and Practice of Land Surveying Examination prepared by NCEES upon payment of a fee as established by the Board.

(3) Failure to pass either or both parts of the examination will in no way affect current licensure.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-9 CLASSIFICATIONS AND BRANCHES OF ENGINEERING AND LAND SURVEYING

330-X-9-.01 Classification of Licensure
330-X-9-.02 Branches of Engineering and
Land Surveying

330-X-9-.03 Functions Common to both
Engineering Surveying and Land
Surveying

330-X-9-.01 Classification of Licensure.

(1) Applicants shall be licensed under one or more of the following titles:

- (a) Professional Engineer or
- (b) Professional Land Surveyor.

(2) Applicants shall be certified under one or more of the following titles:

- (a) Engineer Intern or
- (b) Land Surveyor Intern.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-1; Section 34-11-35, Code of Alabama 1975)

330-X-9-.02 Branches of Engineering and Land Surveying. Chapter 11, Title 34, Code of Alabama 1975 makes no specific designations as to the branches of engineering or land surveying practice for which a license as Professional Engineer or Professional Land Surveyor shall be issued; however, the Rules of Professional Conduct, Rule 330-X-14-.03, provides that a professional engineer or professional land surveyor shall practice only in fields in which he or she is qualified by education or experience. Discipline of examinations taken by a licensee is considered a public record and will be provided by request.

If all design plans for a building or structure, which may include electrical, mechanical, structural and incidental architectural drawings, are all signed and sealed by the same engineer, a form provided by the Board showing qualifications to perform these disciplines must be completed and submitted to the Board by the engineer within one week of the submittal of the plans.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975.)

330-X-9-.03 Functions Common to both Engineering Surveying and Land Surveying. Section 34-11-1, Code of Alabama 1975 provides for definitions of engineering surveys, contained in the definition of practice of engineering, and practice of land sur-

**CHAPTER 330-X-10
LICENSURE AND CERTIFICATION**

- 330-X-10-.01 License Number
- 330-X-10-.02 Certificates of Licensure
- 330-X-10-.03 Reissuance of Certificates

330-X-10-.01 License Number. At the time an applicant is granted licensure by the Board, the applicant will be assigned a license number.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-7; Section 34-11-35, Code of Alabama 1975)

330-X-10-.02 Certificates of Licensure.

(1) After the Board has received payment of the licensure fee from an approved applicant, a Certificate of Licensure with the license number will be issued.

(2) A professional engineer or professional land surveyor examination applicant who fails to complete his or her licensure as provided for herein above within a period of thirty days after notice is mailed to him or her by the Board that he or she has been granted licensure shall be denied licensure. This deadline may be waived due to extenuating circumstances.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-7; Section 34-11-35, Code of Alabama 1975)

330-X-10-.03 Reissuance of Certificates. A licensee requesting a new Certificate of Licensure under the provisions of Section 34-11-12, Code of Alabama 1975 shall file a notarized request form setting out the reasons for the request. When the reissue is to replace an original certificate, the original certificate, if possible, shall be surrendered to the Board. Upon receipt of the request form accompanied by the required fee, a duplicate certificate will be issued.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-12; Section 34-11-35, Code of Alabama 1975)

**CHAPTER 330-X-11
SEALS**

- 330-X-11-.01 Seal of the Board
- 330-X-11-.02 Seal of the Licensee
- 330-X-11-.03 Seal on Documents
- 330-X-11-.04 Seal, Signature, and Date on Certification

330-X-11-.01 Seal of the Board. The seal of the Board shall be circular in form and shall be imprinted on all certificates issued by the Board.

veying. The terms "engineering surveys" and "land surveying" include functions common to both professions and may be performed by professional engineers or professional land surveyors. Likewise, there are functions that must be performed only by a professional engineer and functions that must be performed only by a professional land surveyor.

(a) The professional land surveyor, alone, has the authority to perform dependent or independent surveys or resurveys of the public land system. Functions unique to land surveying that must be performed by or under the direct supervision of a licensed professional land surveyor are:

- (1) Property and boundary surveys
- (2) Sub-division surveys and plats
- (3) Public land surveys
- (4) Mine surveys referenced to land boundaries
- (5) "As Built" surveys referenced to land boundaries
- (6) Geodetic surveys referenced to the public land survey system
- (7) Other surveys that require the establishment of a relationship to property boundaries.

(b) Functions unique to engineering that must be only performed by or under the direct supervision of a licensed professional engineer are:

- (1) Design of roadways and streets
- (2) Design of storm drainage systems
- (3) Design of water and sewer systems
- (4) Design of gas and power systems
- (5) Design of other types of land development dealing with structures and utilities
- (6) Design of site grading plans

(c) Functions common to land surveying and engineering surveying that can be performed by or under the direct supervision of a professional land surveyor or a professional engineer, as long as the survey does not require the establishment of a relationship to property boundaries, are:

- (1) Topographic surveys
- (2) Horizontal and vertical control surveys
- (3) Lay-out surveys for construction
- (4) Profiles and cross sections
- (5) Quantity and measurement surveys
- (6) Cartographic surveys
- (7) Hydrographic surveys
- (8) Geodetic surveys not referenced to the public land survey system
- (9) Mine surveys
- (10) "As Built" Surveys not referenced to land boundaries
- (11) Right-of-way, easement, or alignment referenced to the centerline of the project
- (12) Other types of surveys that do not require establishment of a relationship to property boundaries.

Effective date: October 28, 1998

(Auth: Section 34-11-35, Code of Alabama 1975)

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-11-.02 Seal of the Licensee.

(1) Upon approval of licensure by the Board, licensees will be advised that they should secure an official seal which shall be applied to all drawings, specifications, reports, and other engineering or land surveying documents prepared by or under the direct control and personal supervision of the licensees.

(2) The seals to be used by the licensees are to be circular in form and not less than 1 5/8 inches nor greater than 2 inches in diameter with copy of the design to be furnished each new licensee.

(3) Seals obtained prior to the adoption of this rule and which are in conformance with prior Board rules are acceptable.

(4) Rubber stamps and computer generated seals identical in size, design, and content with the approved seals may be used by the licensee.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

330-X-11-.03 Seal on Documents.

(1) The seal, signature, and date of signature on a document signify that the document was prepared by the licensee or under his or her direct control and personal supervision, or that the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for documents prepared by another licensed professional engineer or licensed professional land surveyor.

(2) Each sheet of plans, drawings, documents, specifications, and reports for engineering practice and of maps, plats, charts, and reports for land surveying practice, shall be signed, sealed, and dated by the licensee or interim permit holder who prepared the documents or under whose direct control and personal supervision the documents were prepared.

(3) Where more than one sheet is bound together in one volume, the licensee or interim permit holder who prepared the volume, or under whose direct control and personal supervision the volume was prepared, may sign, seal, and date only the title or index sheet, provided that this 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 or interim permit holder, be signed, sealed, and dated by the other licensee or interim permit holder.

(4) Additions, deletions, or other revisions affecting public health and safety or State and local codes shall not be made unless signed, sealed, and dated by the licensee or interim permit holder who made the revisions

or under whose direct control and personal supervision said revisions were made.

(5) Working drawings consisting of sketches, reports, or otherwise a work product which is in whole or part intended to communicate work to be performed or for use in specific proposals and/or becomes a part of defining the scope of a contract for work, must be sealed, signed, and dated by the licensee who prepared these documents or under whose direct control and personal supervision they were prepared.

(6) A computer generated seal or facsimile is acceptable only when the professional engineer or professional land surveyor also signs (original signature) and dates the document on or adjacent to the computer generated or facsimile seal. Any variation from this procedure must be submitted to and approved by the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

330-X-11-.04 Seal, Signature, and Date on Certifications.

(1) The term "Certification" as used herein shall be as set forth in Rule 330-X-2-.01(8).

(2) When an engineer or a land surveyor is presented with a Certification to be signed, sealed, and dated, he or she should carefully evaluate that Certification to determine if any of the circumstances set forth in subsection (3) below would apply.

(3) Engineers or land surveyors who sign, seal, and date Certifications which: (a) relate to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of services actually provided, or (c) relate to matters which were not prepared under the engineer's or land surveyor's responsible supervision, direction, or control are subject to discipline pursuant to Rules 330-X-14-.05(h) and 330-X-16.

(4) If any of these circumstances set forth in subsection (3) above would apply, that engineer or land surveyor shall either: (a) modify such Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign, seal, and date such Certification.

Effective date: October 18, 1994. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-12 INTERIM PERMITS

330-X-12-.01 Requirements
330-X-12-.02 Issuance

330-X-12-.01 Requirements.

(1) This Board may grant an interim permit to practice as a professional engineer to a person who applies for the permit and who is legally qualified to practice in another jurisdiction, and who has never had a license revoked or invalidated. A lapsed license is not considered invalidated. The application procedure for an interim permit is identical to that prescribed for licensure as a professional engineer in this State. In addition, a person desiring an interim permit will file a "Request for Interim Permit in Alabama" form as prescribed by the Board and submit the appropriate fee. This request will state the reason for requesting such permit and the specific work to which it applies.

(2) If the Executive Director of the Board finds the application and request to be in order and the applicant clearly meets all requirements for licensure in Alabama, the request for interim permit will be processed.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-4; Section 34-11-35, Code of Alabama 1975)

330-X-12-.02 Issuance.

(1) An interim permit will be effective until the next regular meeting of the Board after the interim permit has been granted at which time the applicant will be considered for licensure. If, in the opinion of the Board, the qualifications of the applicant are insufficient, the interim permit will be immediately terminated and the applicant will be notified.

(2) While practicing under an interim permit in this State, the holder thereof will affix to all plans and documents for use and execution in this State, the seal or stamp required in the jurisdiction in which he or she is currently licensed with the added notation: "Practicing in the State of Alabama under Interim Permit No. ."

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-12-.03 Land Surveyors not eligible. This Board is not empowered to grant a permit for the interim practice of land surveying in Alabama. No person may legally practice land surveying in this State without first being fully licensed as a land surveyor by this Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**CHAPTER 330-X-13
EXPIRATIONS, LAPSES, RENEWALS,
AND CONTINUING PROFESSIONAL
COMPETENCY**

- 330-X-13-.01 Renewals
- 330-X-13-.02 Continuing Professional Competency
- 330-X-13-.03 Lapses

330-X-13-.01 Renewals.

(1) All licenses lapse on December 31 of a specified year. Each licensee will be mailed a form for renewal of licensure no later than two months prior to the date the license lapses. The original renewal form must be signed and returned to the Board office with the renewal fee. The license renewal notice will contain references to the five Canons of the Rules of Professional Conduct (Code of Ethics), Rule 330-X-14, which the licensee is required to read. The licensee's signature on the renewal form reaffirms agreement to abide by the Rules of Professional Conduct.

(2) Certificates of Authorization are renewed annually and lapse on January 31. Renewal applications will be mailed no later than December 1 to every corporation, partnership, or firm holding a certificate of authorization. The application form shall be completed and returned with the renewal fee prescribed by the Board.

(3) An application for certification renewal will be mailed to certified engineer interns and land surveyor interns annually, no later than the end of October. All certifications lapse on December 31.

(4) The renewal fees are set each year by the Board. No renewal fees will be accepted prior to the mailing of the renewal forms.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-8; Section 34-11-35, Code of Alabama 1975)

330-X-13-.02 Continuing Professional Competency

(1) **Purpose** — In order to help safeguard life, health, and property, and to promote the public welfare, the practices of professional engineering and land surveying in Alabama require continuing professional competency in accordance with Code of Alabama 1975 Section 34-11-8 (a)(2) and this Rule.

(2) **Scope** — Each in-state and out-of-state licensee shall be required to meet the continuing professional competency requirements of these regulations for professional development as a condition for licensure renewal. Continuing professional competency obtained by a licensee should maintain, improve, or expand skills and knowledge obtained prior to initial licensure or develop new and relevant skills and knowledge.

(3) **Definitions** — Terms used in this section are

defined as follows:

(a) Professional Development Hour (PDH)—A contact (clock) hour consisting of not less than 50 minutes of instruction or presentation and which further meets the requirements of these rules.

(b) Sponsor—An individual, organization, association, institution, or other entity which provides an educational activity for the purpose of fulfilling the continuing professional competency requirements of this rule.

(4) **Requirements** — To demonstrate that a licensed professional engineer or professional land surveyor maintains an acceptable level of competency, a licensee must obtain the number of Professional Development Hours (PDH) per renewal period as shown below. The requirement must be satisfied during the current renewal period except (1) for the carryover permitted and (2) PDH earned between October 15 and December 31 prior to the end of the renewal period may be submitted as credit earned for the current renewal period or for the following renewal period, but not for both.

(a) A licensed professional engineer or licensed professional land surveyor must earn a minimum of fifteen PDH per annual renewal period or thirty if biennial renewal period except for the carryover permitted. The number of professional development hours which may be carried forward into the next renewal period shall not exceed fifteen whether on an annual or biennial period.

(b) A dual licensee is required to earn a minimum of twenty PDH for each year a license is renewed except for the carryover permitted. Ten (twenty if biennial renewal) of the PDH must be in the area of professional engineering and ten (twenty if biennial renewal) in the area of land surveying. The number of professional development hours which may be carried forward into the next renewal period for a dual licensee shall not exceed ten in each professional area whether on an annual or biennial renewal basis.

(c) All professional land surveyors are required to earn a minimum of six PDH credits by attending a seminar or by completing a correspondence course on Minimum Technical Standards for Land Surveyors every four years. All new professional land surveyor licensees must complete the MTS requirement within 24 months, before or after, of becoming a licensed surveyor. Credits for these courses/seminars on MTS will count toward the annual or biennial PDH requirements.

(5) **Activities** — Continuing professional competency activities which satisfy the professional development requirement shall include, but not be limited to:

(a) Successfully completing or auditing college or university sponsored courses,

(b) Successfully completing courses which are awarded continuing educational units (CEU),

(c) Attending seminars, tutorials, short courses, correspondence courses, televised courses, or videotaped courses,

(d) Attending in-house programs sponsored by corporations or other organizations,

(e) Teaching or instructing as described in (a) through (d) above,

(f) Authoring published papers, articles, or books,

(g) Making presentations at technical meetings,

(h) Attending qualifying program presentations at related technical or professional meetings, and

(i) Receiving a United States patent.

All of such activities as described in (a) through (i) above must be relevant to the practice of engineering or land surveying and may include technical, ethical, or managerial content. The Board does not preapprove or endorse any CPC activities. It is the responsibility of each licensee to assure that all PDH credits claimed meet the requirements as specified in 330-X-13.02.

(6) **Criteria** — Continuing professional competency activities must meet the following criteria:

(a) There is a clear purpose and objective for each activity which will maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

(b) The content of each presentation is well organized and presented in a sequential manner.

(c) There is evidence of preplanning which should include the opportunity for input by the target group to be served.

(d) The presentation will be made by persons who are well qualified by education or experience.

(e) There is a provision for individual participant registration which will include information required for record keeping and reporting.

(7) **Units** — The conversion to PDH units from other units is as follows:

1 University semester hour of credit...	45 PDH
1 University quarter hour of credit...	30 PDH
1 Continuing Educational Unit (CEU).	10 PDH
1 Hour of acceptable professional development education ...	1 PDH

(8) **Credits** — Credit for qualifying courses successfully completed which offer PDHs based on semester hours, quarter hours, or CEUs is as specified above. All other activities permit the earning of one PDH credit for each contact hour with the following exceptions:

(a) Successful auditing of university or college courses permits PDH credit of 1/3 that shown in (7) above.

(b) Teaching or instructing qualifying courses or seminars or making presentations at technical meetings can earn PDH credit at twice that of participants.

(c) Authorship of papers, articles, or books cannot be claimed until actually published. Receipt of a US patent cannot be claimed until the patent is actually

awarded. Credit earned will equal preparation time spent not to exceed 10 PDH per publication or patent.

(d) The Board does not encourage meeting continuing professional competency requirements through correspondence courses. Correspondence course PDH may be acceptable, however the licensee should submit, if requested, supporting documentation to demonstrate high quality education from the course.

(e) The Board will not accept self study, regular employment including repetitive teaching of the same course without updating course material, service club meetings, equipment demonstrations, membership on Boards or Committees, enrollment without attending the course, conversational language courses for personal use, and other activities not relevant to engineering or land surveying and not educational in nature.

(9) **Exemptions** — A licensee may be exempt from the professional development educational requirements for one of the following reasons:

(a) A new licensee by way of examination is awarded 15 PDHs towards their first renewal.

(b) A noncareer military licensee serving on active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the professional development hours required during that year.

(c) A licensee employed as a professional engineer or professional land surveyor and assigned to duty outside the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the professional development hours required during that year.

(d) A licensee who has experienced during the past year a serious illness or injury of a nature and duration which has prohibited completing continuing professional competency requirements this past renewal period may be exempted in order to give the licensee sufficient time to recuperate and begin to earn the necessary professional development hours for the next renewal period. Supporting documentation such as a letter from a physician must be furnished to the Board. This exemption, not to exceed one renewal period, is granted as specified by the Board.

(e) Licensees who list their occupation as Retired or Inactive on the Board approved renewal form and who certify that they are not currently practicing engineering or land surveying shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or professional land surveying, to include reinstating a lapsed license, professional development hours must be earned for each year exempted not to exceed the annual requirement for two years before the person returns to active practice. The hours required for reinstatement are to bring the license to active status. When the reinstated license

renewal is due, the licensee will also be required to obtain the professional development hours for the renewal period.

(10) **Comity** — Continuing professional competency requirements may be met without completing the entire renewal form if a licensee resides in another jurisdiction whose continuing professional competency requirements are acceptable to the Alabama Board and the licensee certifies in the appropriate section that all continuing professional competency and licensure requirements for that jurisdiction have been met. Out-of-state land surveyors are required to meet the requirements for a course on minimum technical standards as outlined in this section. Courses that are comparable to the one offered in Alabama are acceptable.

(11) **Forms** — All renewal applications will require the completion of a continuing professional competency form specified by the Board outlining PDH credit claimed. The licensee must supply sufficient detail requested on the form to permit audit verification, must certify and sign the continuing professional competency form, and submit it with the renewal application and fee.

(12) **Records** — The responsibility of maintaining records which can be used to support credits claimed is the responsibility of the licensee. 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, signed attendance receipts, paid receipts, a copy of a listing of attendees signed by the sponsoring organization, or other documents supporting evidence of attendance. These records must be maintained for a period of four years and copies must be furnished, if requested, to the Board for audit verification purposes. These records should not be furnished with the renewal application.

(13) **Disallowance** — If the Board disallows claimed PDH credit after the renewal has been processed, the licensee shall have 180 days after notification to substantiate the original claim or to earn other credit to meet the minimum requirement.

(14) **Failure to Comply** — During the renewal process if a licensee fails to furnish the required continuing professional competency form, properly completed or signed, the right to practice as a licensed professional engineer or licensed professional land surveyor in the State of Alabama will lapse on December 31.

Effective Date: August 17, 1992. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-8; Section 34-11-35, Code of Alabama 1975)

330-X-13-.03 Expirations and Lapses.

(1) The right to practice as a licensed professional engineer or licensed professional land surveyor lapses

December 31 of the specified year unless renewed. To be reinstated, a licensee who does not renew before December 31 and has a lapsed license for a period not to exceed four years, will be required to file a reinstatement form, show evidence of completion of the continuing professional competency requirement, and pay the reinstatement fee as determined by the Board. Any license which has been lapsed for more than four years is not eligible for reinstatement and is considered expired and the individual will be required to file a new application and meet the statutory requirements in existence at time of relicensing.

(2) An engineer intern or land surveyor intern who does not renew his or her certification within the period provided by Law will not invalidate his or her status as an engineer intern or land surveyor intern, but his or her name shall, after ninety days, be removed from the Board's current mailing list and omitted from the Roster. The fee to bring an enrollment current after a renewal expiration shall be twice the fee established for the renewal period.

(3) A certificate of authorization issued to a corporation, partnership or firm shall lapse on January 31 following the issuance or renewal if not renewed, and the corporation, partnership or firm may not offer or engage in engineering or land surveying services until the certificate of authorization has been renewed. A certificate of authorization not renewed within two years after it has lapsed will become null and void and is considered expired.

Effective Date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-8; Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-14 PROFESSIONAL CONDUCT (CODE OF ETHICS)

330-X-14-.01	Preamble
330-X-14-.02	Conflict of Interest (Canon I)
330-X-14-.03	Qualified by Education and Experience (Canon II)
330-X-14-.04	Confidences of Clients and Employers (Canon III)
330-X-14-.05	Practice (Canon IV)
330-X-14-.06	Ethics (Canon V)
330-X-14-.07	Responsibility for Conduct
330-X-14-.08	Convictions

330-X-14-.01 Preamble.

(1) In order to meet the intent of the Code of Alabama 1975, Title 34, Chapter 11, to safeguard the life, health, property, and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the following Rules of Professional Con-

duct (Code of Ethics) are promulgated in accordance with Section 34-11-35, Code of Alabama 1975 and shall be binding upon (a) every person holding a license as a professional engineer or professional land surveyor, (b) every certified engineer intern and land surveyor intern and (c) holders of certificates of authorization.

(2) All persons licensed or certified under the provisions of Chapter 11, Title 34, Code of Alabama 1975 and prior Code, are charged with having knowledge of the existence of the Rules of Professional Conduct (Code of Ethics), Rules 330-X-14-.02 through 330-X-14-.07, and shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering or land surveying is a privilege, as opposed to a right, and the licensee or intern shall be forthright and candid in his or her statements or written response to the Board or its representatives on matters pertaining to professional conduct.

(3) Where applicable, the singular use of the words "engineer or land surveyor" used in the five Rules of Professional Conduct (Canons) shall also include holders of certificates of authorization.

Effective Date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-14-.02 Conflict of Interest. (Canon I) The engineer or land surveyor shall exercise independent judgments, decisions and practices on behalf of clients and employers as follows:

(a) The engineer or land surveyor shall attempt to avoid all conflicts of interest with his or her client or employer, but when a conflict of interest is unavoidable, the engineer or land surveyor shall immediately inform his or her employer or client of any business association, interest, or circumstances which might tend to influence the licensee's professional judgments, decisions or practices or the quality of services.

(b) The engineer or land surveyor shall not solicit or accept any gratuity, material favor or benefits of any substantial nature from any party, agent, servant or employee dealing with his or her client or employer in connection with any project on which he or she is performing or has contracted to perform engineering or land surveying services. This solicitation or acceptance includes, but is not limited to any act, article, money or other material possessions which is of such value proportion that its acceptance creates a clandestine obligation on the part of the receiver or otherwise compromises his or her ability to exercise his or her own independent judgment.

(c) The engineer or land surveyor shall not solicit or accept, directly or indirectly, any engineering or land surveying contract, selection, or employment from a governmental body in which a principal or officer of the licensee's organization serves as a member or em-

ployee.

(d) When in public service as a member or employee of a governmental body, the engineer or land surveyor shall not participate, directly or indirectly, in considerations or actions with respect to retaining services offered or provided by the licensee, his or her associates or his or her organization to such governmental body.

Effective Date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-14-.03 Qualified by Education and/or Experience. (Canon II) The engineer or land surveyor shall act competently and use proper care in performing engineering or land surveying services for clients or employers and shall act only in fields in which qualified by education or experience as follows:

(a) The engineer or land surveyor shall not accept any engineering or land surveying employment, or undertake any engineering or land surveying assignment, for which he or she is not qualified by education or experience to perform or to carry out adequately and competently; providing and excepting, however, that an engineer or land surveyor may accept an assignment requiring education and experience outside his or her field of competence only to the extent that personal engineering or land surveying services are restricted solely to those phases of the service or project in which he or she is qualified and competent, and that all other phases of such service or project shall be performed by legally qualified consultants, associates or employees.

(b) The engineer or land surveyor shall not affix his or her signature or seal to any engineering or land surveying plan or document dealing with subject matter on which he or she is not qualified by education or experience to form a dependable judgment.

(c) The engineer or land surveyor, 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 or her testimony.

(d) The engineer, land surveyor, engineer intern, or land surveyor intern shall not engage in any other professional matter for which a specific license is required without first being licensed in that profession.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-14-.04 Confidences of Clients and Employers. (Canon III) The engineer or land surveyor shall safeguard and preserve the confidences and private information of clients and employers as follows:

(a) Except as permitted by 330-X-14-.04(b), the en-

gineer or land surveyor shall not knowingly:

1. Reveal a confidence or private information regarding or in the possession of the licensee's client or employer, current or former;

2. Use a confidence or private information regarding or in the possession of the client or employer, current or former, to the disadvantage of the client or employer;

3. Use a confidence or private information regarding or in the possession of the client or employer for the advantage of a third person, unless the client or employer, current or former, consents after full disclosure except (b) below.

(b) The engineer or land surveyor may reveal confidences or private information under the following circumstances:

1. When he or she has obtained the consent of the client or clients, employer or employers, current or former, affected, but only after full disclosure to them;

2. When required by law or court order;

3. When necessary to establish legal proof of his or her relationship with a client or employer, current or former, in a court action to recover salaries, fees or other compensation due him or her as a result of his or her employment or association with the client or employer, current or former;

4. When necessary to defend himself or herself or his or her employees or associates in a legal action alleging wrongful conduct;

5. When there is potential danger to the public's safety and well being.

(c) The engineer or land surveyor shall exercise reasonable care to prevent unauthorized disclosure or use by his or her employees and associates of private information or confidences regarding or in the possession of a client or employer, current or former.

(d) Nothing in this Rule shall relieve an engineer or land surveyor from complying with Rule 330-X-14.05(j).

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-14-.05 Practice. (Canon IV) The engineer or land surveyor shall endeavor to build a practice and professional reputation on the merit of his or her services as follows:

(a) The engineer or land surveyor shall not offer, or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, benefit or reward as an inducement to secure any specific professional engineering or professional land surveying work or assignment; providing and excepting, however, that an engineer or land surveyor may pay a duly licensed employment agency its fee or commission for securing engineering or land surveying employment in a salaried position.

(b) The engineer or land surveyor shall not solicit

professional employment by self-laudatory advertising, or in any manner contrary to high professional standards.

(c) The engineer or land surveyor shall not make, publish or cause to be made or published, any representation or statement concerning his or her professional qualifications or those of his or her partners, associates, firm or organization which is in any way misleading, or tends to mislead the recipient thereof, or the public, concerning his or her engineering or land surveying education, experience, specializations or other engineering or land surveying qualifications.

(d) The engineer or land surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another engineer or land surveyor in an ongoing engineering or land surveying project, after contracts have been awarded to such other engineer or land surveyor.

(e) The engineer or land surveyor shall not attempt to compete with another engineer or land surveyor for employment by reducing his or her usual charges or by the use of unethical practices.

(f) The engineer or land surveyor, in the public interest, shall not participate in fee determination procedures (bid submittals or contract negotiations) which contribute to an inferior quality of workmanship. The engineer or land surveyor shall refrain from participating in procurement practices which do not first determine the qualifications of the engineering and land surveying services contractor prior to entering into fee negotiations for services being sought. An engineer or land surveyor having submitted a statement of qualification and performance data, and having first been judged as the qualified individual or firm to provide the services required for the proposed project, may proceed to negotiate a contract with a client and establish compensation for the required services.

Should the engineer or land surveyor be unable to negotiate a satisfactory contract with the client for any reason, the engineer or land surveyor shall withdraw from further consideration for the engineering or land surveying services. Another engineer or land surveyor may then be selected for negotiations of a contract for the services on the stated project.

(g) The engineer or land surveyor shall perform his or her work in accordance with approved standards of practice. This performance also includes being guided by current Engineering and Land Surveying Society Codes, Standards, and recommended guidelines which set forth standards generally accepted in the professions such as current editions of the National Electrical Code, American Society of Mechanical Engineers' Codes, Standard Building Code, and the Alabama Society of Professional Land Surveyors' Minimum Technical Standards for Land Surveying.

(h) Should the engineer or land surveyor be presented with a Certification to be signed, sealed, and dated as summarized in Rule 330-X-11-.04 and defined

in Rule 330-X-2-.01(8), he or she should carefully evaluate that Certification to determine if any of the circumstances set forth below would apply. The engineer or land surveyor who signs, seals, and dates Certifications which: (a) relate to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of services actually provided, or (c) relate to matters which were not prepared under the engineer's or land surveyor's responsible supervision, direction or control are subject to disciplinary action pursuant to Rule 330-X-16. If any of these circumstances would apply, the engineer or land surveyor shall either: (a) modify the Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign the Certification.

(i) The engineer or land surveyor shall be completely objective, truthful, and shall include all relevant and pertinent information in all professional reports, statements or testimony.

(j) The engineer or land surveyor shall 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 or she has prefaced his or her comments by explicitly identifying himself or herself, by disclosing the identities of the party, or parties, on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matter.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-14-.06 Ethics. (Canon V) The engineer or land surveyor shall contribute to the maintenance, integrity, independence and competency of the engineering or land surveying profession as follows:

(a) The engineer or land surveyor shall not:

1. Violate any provision of the Alabama Law regulating the practice of engineering and land surveying or of the Administrative Code of the Board of Licensure for Professional Engineers and Land Surveyors;

2. Participate, directly or indirectly, in any plan, scheme or arrangement attempting or having as its purpose the evasion of any provision of the Alabama Law regulating the practice of engineering and land surveying;

3. Fail to exercise reasonable care or diligence to prevent his or her partners, associates, and employees from engaging in conduct which if done by him or her, would violate any provision of the Alabama Law regulating the practice of engineering and land surveying;

4. Engage in any illegal conduct, whether a felony or misdemeanor, the essential element of which is dishonesty;

5. Engage in any conduct that discredits or tends to

discredit the profession of engineering or land surveying;

6. Permit or allow his or her professional identification, seal, firm, or business name, or his or her services to be used or made use of, directly or indirectly, or in any manner whatsoever, so as to make possible or create the opportunity for the unauthorized practice of engineering or land surveying by any person, firm, or corporation in this State;

7. 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. Knowingly associate with or permit or allow the use of his or her name, firm name, or professional identification or seal in any business venture, project or enterprise which he or she knows or has reason to believe is engaged in professional practices which violate any provision of the Alabama Law regulating the practice of engineering and land surveying;

9. Knowingly associate with or permit the use of his or her name, professional identification, seal, firm, or business name in connection with any venture or enterprise which he or she knows, or has reason to believe, is engaging in trade, business or professional practice of a fraudulent, deceitful or dishonest nature;

10. Injure or attempt to injure or damage the professional reputation of another by any means whatsoever; provided and except, however, that this shall not relieve an engineer or land surveyor of the obligation to expose unethical or illegal conduct to the proper authorities or preclude a frank, but private, appraisal of engineers or land surveyors or other persons or firms considered for employment;

11. Aid or abet, directly or indirectly, any unlicensed person in connection with the unauthorized practice of engineering or land surveying; or any firm or corporation in the practice of engineering or land surveying unless carried on in accordance with the provisions of Chapter 11, Title 34 of the Alabama Law regulating the practice of engineering and land surveying;

12. Place his or her seal, signature, date, and license number on a document constituting a certification that the document was prepared by the licensee unless the document was prepared by the licensee or under his or her direct control and personal supervision or unless the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for plans prepared by another licensed professional engineer or licensed professional land surveyor.

13. Review the work of another engineer or land surveyor for the same employer, except with the knowledge or consent of the engineer or land surveyor, unless the connection of the engineer or land surveyor with the work has been terminated.

(b) The engineer or land surveyor shall be personally and professionally responsible and accountable for

the care, custody, control, and use of his or her engineer's or land surveyor's seal, professional signature, and identification. The engineer or land surveyor whose seal has been lost, misplaced, or stolen shall, upon discovery of its loss, report the loss immediately to the Board, which may invalidate the license number of the seal, if it deems this necessary, and issue another license number to the engineer or land surveyor.

(c) When in public service as a member or employee of any governmental body, agency, or department, the engineer or land surveyor shall not participate, directly or indirectly, use or make use of any property, facility or service of such governmental body, agency or department for the benefit of any private business or activity in which such engineer or land surveyor also may be engaged, unless prior, proper authority is obtained in writing.

(d) The engineer or land surveyor shall not, directly or indirectly, use or make use of any property, facility, or service of his or her client or employer for the benefit of the engineer or land surveyor, unless prior, proper authority is obtained in writing.

(e) The engineer or land surveyor shall not practice or offer to practice engineering or land 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 land surveying in that jurisdiction.

(f) The engineer or land surveyor shall report all violations of the Code of Ethics to the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-14-.07 Responsibility for Conduct. A corporation, partnership, or firm shall be held responsible for the conduct or acts of its agents, employees, officers, partners, or owners, licensed or non-licensed.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-9 (d); Section 34-11-35, Code of Alabama 1975)

330-X-14-.08 Convictions. The revocation, suspension, or denial of a license to practice engineering or land surveying in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Alabama Law regulating the practice of engineering and land surveying or any rule, regulation, or code promulgated by the Board, shall be sufficient cause for the denial, suspension, or revocation of a license to practice engineering or land surveying in the State of Alabama.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

SEVERABILITY

If any of the above provisions of the Rules of Professional Conduct (Code of Ethics) or any part thereof, or any sentence, paragraph, clause, phrase or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each of the above provisions and/or any portions thereof, are severable.

CHAPTER 330-X-15 COMPLIANCE AND ENFORCEMENT

- 330-X-15-.01 Compliance
- 330-X-15-.02 Enforcement

330-X-15-.01 Compliance.

(1) Section 34-11-9, Code of Alabama 1975 provides that a firm, company, partnership, or corporation may engage or offer to engage in the practice of professional engineering or professional land surveying; provided, one or more of the principal officers of the corporation or firm or partners of the partnership and all personnel of the corporation, partnership, or firm who act in its behalf as professional engineers or professional land surveyors in this state are licensed as provided by Title 34, Chapter 11 of the Code of Alabama 1975, and further provided, that the corporation, partnership, or firm has been issued a certificate of authorization by the Board.

(2) In order to be considered eligible for a certificate of authorization, every firm, partnership, or corporation or other entity which performs engineering or land surveying services in the State of Alabama, shall have a resident licensed professional engineer or licensed professional land surveyor as the case may be, who exercises direct control and personal supervision of the engineering or land surveying work for each separate office or branch office in which engineering or land surveying services are performed or offered to be performed. The resident engineer or land surveyor shall be an employee of the firm, corporation, partnership, or association or other entity, engaged in the practice of engineering or land surveying. The engineer or land surveyor can be the resident licensee at only one place of business at one time.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

330-X-15-.02 Enforcement. The Board may initiate action in cases where a person's actions or business entity's actions are in violation of the law. Upon receipt of evidence from any person that an individual has violated the law including, but not limited to, repre-

senting or attempting to use as his or her own the license or seal of another, or practicing without licensure or certificate of authorization, the Board may assemble the facts, obtain legal guidance, follow the case to completion based on the legal guidance given and begin administrative action, levy a civil administrative penalty, file a civil action, and/or refer the matter for criminal prosecution.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-15; Section 34-11-16; Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-16 DISCIPLINARY ACTION

- 330-X-16-.01 Complaints
- 330-X-16-.02 Probable Cause
- 330-X-16-.03 Charges
- 330-X-16-.04 Pre-Hearing Discovery
- 330-X-16-.05 Disciplinary Hearings
- 330-X-16-.06 Discipline
- 330-X-16-.07 Reinstatement of Licensure or Certification after Revocation
- 330-X-16-.08 Conflict and Bias

330-X-16-.01 Complaints.

(1) Proceedings to revoke, refuse to renew, or to suspend a license or a certificate of authorization or to censure, place on probation and/or fine a licensee, a certified engineer intern, a certified land surveyor intern or a corporation, partnership, or firm holding a certificate of authorization may be initiated by the Board or by any person upon the filing of a complaint with the Board office.

(2) Proceedings to begin Board administrative action, or to prosecute in criminal court a licensee or a nonlicensee may be initiated by the Board or by any person upon the filing of a complaint with the Board office.

(3) A complaint against a licensee or nonlicensee shall be in writing and shall contain:

(a) Name and address of the complaining party as well as the name and address of the individual or entity against which the complaint has been filed.

(b) A plain and concise statement of the facts which indicate that the provisions of Chapter 11, Title 34, Code of Alabama 1975, Rules promulgated by the Board, or Rules of Professional Conduct (Code of Ethics), Rules 330-X-14-.02 through 330-X-14-.06 have been violated.

(c) The relief sought.

(d) The signature of the complainant.

(4) A complaint, if any parties involved in the complaint are anticipating litigation or litigation is pending, including appeals, will not be investigated unless the immediate failure to investigate adversely impacts the

public health, safety, or welfare. Upon completion of all litigation, the complainant should provide all court documents to the Board. The Board, after review of the court documents, shall determine whether an investigation should be conducted.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-15; Section 34-11-16; Section 34-11-35, Code of Alabama 1975)

330-X-16-.02 Probable Cause.

Upon receiving a complaint the Executive Director shall refer the complaint to one member of the Board; provided, however, that if the complaint is first made to a Board member, then it shall be referred to that Board member. The Board member to whom a complaint is referred, the Executive Director, the Board's attorney, and the Board investigator (Investigative Committee) shall determine appropriate action and/or whether probable cause exists. If charges are filed, the Board member who made the probable cause determination shall not sit as a member of the Board at the disciplinary hearing held pursuant to the charges.

Effective date: October 1, 1983. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-16; Section 34-11-35, Code of Alabama 1975)

330-X-16-.03 Charges.

(1) The Board shall instruct its counsel to prepare charges once the Board determines that probable cause exists.

(2) The charges shall be sent certified mail, return receipt requested, to the most recent address of the respondent and shall be mailed at least 30 days prior to the scheduled date of the hearing. A copy shall also be sent first class mail.

(3) The charges shall be specific and give notice in compliance with the Alabama Administrative Procedure Act, Section 41-22-12 (b) and Section 34-11-11, Code of Alabama 1975.

Effective date: October 1, 1983. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-16; Section 34-11-35, Section 41-22-12(b); Code of Alabama 1975)

330-X-16-.04 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, and facilitate the carriage of justice.

(2) The attorney for the Board or the respondent may upon application to the Board member, who determined probable cause, or if a Hearing officer, the Hearing officer, obtain discovery regarding any matter not privileged which is relevant to the subject matter

involved in the pending action, whether it relates to the charges of the Board or the defense of the respondent.

(3) Methods of Discovery.

(a) Upon written application to the Board member, who determined probable cause or if a Hearing officer, the Hearing officer, the following discovery shall be allowed or ordered:

1. Deposition upon oral examination of any expert witness.

2. Interrogatories to respondent.

3. Order for production and copying of documents and things and entry upon land for inspection and other purposes, against any person.

(b) The discovery must be had in accordance with any terms and conditions imposed by the Board member or if a Hearing officer, the Hearing officer. The Board member or if a Hearing officer, the Hearing officer may impose any such terms and conditions as are just upon discovery in order to protect a person from annoyance, embarrassment, oppression, or undue burden or expense.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

330-X-16-.05 Disciplinary Hearings.

(1) Conduct of Hearing.

(a) Hearing Officer. The Board may, in its discretion, appoint a person to act as Hearing officer at disciplinary hearings. In the event a Hearing officer is appointed, he or she shall preside at the hearing and shall rule on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary.

(b) Plea. The respondent shall plead either "guilty" or "not guilty" to the charges.

(c) Opening Statement. Each side shall be permitted to make a short opening statement.

(d) The Board shall present its evidence, followed by the respondent, followed by rebuttal by the State. Each witness called may be examined in the following manner:

1. Direct examination.

2. Cross examination.

3. Examination by Board.

4. Re-direct examination.

5. Re-cross examination.

6. Re-examination by Board.

(e) Closing Argument. 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) The Board may request one or both sides to prepare within seven days a proposed order of the Board for the Board's consideration including findings of fact, official notice, and conclusions of law. Underlying facts

of record which support the findings should be cited.

(g) Order. The Board shall issue an order within 30 days of the date of the final hearing, which shall include findings of fact, official notice taken, and conclusions of law stated separately. Respondent shall be delivered a copy of the order by certified mail, return receipt requested, and a copy shall be mailed first class to each attorney of record.

(2) Evidence. Evidence shall be admitted in accordance with the Alabama Administrative Procedure Act, Section 41-22-13, Code of Alabama 1975. Relevant Federal, State, and local codes as well as relevant engineering and land surveying society codes, guidelines, and standards may be admitted into evidence in disciplinary proceedings before the Board to set forth standards generally accepted by the professions. These would include relevant engineering or land surveying codes and standards such as, current editions of the National Electrical Code, American Society of Mechanical Engineers' Codes, Standard Building Code, and the Alabama Society of Professional Land Surveyors' Minimum Technical Standards for Land Surveying.

(3) Other. The hearing shall be conducted in compliance with the provisions of the Alabama Administrative Procedure Act, Chapter 22, Title 41, Code of Alabama 1975. If the accused person or corporation fails or refuses to appear, the Board may proceed to hear and determine the validity of the charges.

(4) Negotiated Settlements. The Board attorney is hereby authorized to negotiate settlements with any respondent wishing to do so. In the event that the Board attorney and the respondent have reached tentative agreement on a negotiated settlement prior to the date set for hearing of the charges, such agreement shall be presented to the Board at the first available opportunity. The Board may either accept or reject the tentative agreement of negotiated settlement and if accepted, the respondent shall be notified and no hearing held. If the Board rejects the tentative agreement of negotiated settlement, the charges shall be heard by the Board within a reasonable time.

Effective date: Section (1)(a) through (1)(f): September 10, 1982 Sections (1)(g), (2), (3) and (4): October 1, 1983. Last amendment effective: October 28, 1998.

(Auth: Section 41-22-13, Section 41-22-16(c); Section 41-22-19 (d); Section 34-11-11; Section 34-11-16; Section 34-11-35, Code of Alabama 1975)

330-X-16-.06 Discipline.

(1) Upon a finding that the respondent has violated any enumerated provision of Sections 34-11-11, 34-11-15, 34-11-16, or any rule adopted pursuant to Section 34-11-35, the Board shall impose any or all of the disciplinary penalties set forth in Code of Alabama 1975, Section 34-11-11.

(2) Stay of Execution of Order. The Board may, in its discretion, permanently or temporarily stay the execution of its order to censure, place on probation, fine, revoke, or suspend a licensee respondent's license, certification, or certificate of authorization. The Board may, in its discretion, permanently or temporarily stay the execution of its order to fine a non-licensure respondent. The stay may be conditioned on any provision the Board deems appropriate under all the circumstances of a particular case.

(3) Consideration. In determining whether a license, certification or certificate of authorization should be revoked or suspended, and whether execution of the order should be stayed, and upon what conditions, the Board shall consider all relevant factors.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-35, Code of Alabama 1975)

330-X-16-.07 Reissuance of Licensure or Certification after Revocation.

(1) Any person, corporation, partnership, or firm whose license, certification, or certificate of authorization has been revoked may apply, when permitted by Law, to the Board for reissuance of the license or certificate. In the application for reissuance, the applicant should state why the license, certification, or certificate of authorization should be reissued and should specifically set forth any changed circumstances which would justify reissuance.

(2) Upon receipt of such application the Board shall grant the applicant a hearing on reissuance, at which time the applicant may appeal to the Board to reissue his or her license or certification.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-12; Section 34-11-35, Code of Alabama 1975)

330-X-16-.08 Conflict and Bias.

(1) No Board member shall be entitled to vote in any disciplinary matter if the Board member is personally biased, or if a conflict exists with the respondent, or if such voting would violate the provisions of the Alabama Administrative Procedure Act, Section 41-22-18 (a), Code of Alabama 1975.

(2) Any respondent in a disciplinary action who wishes to assert bias or conflict may do so by filing an affidavit asserting the disqualification together with the underlying factual bias for the assertion with the Executive Director at least three days before the scheduled disciplinary hearing.

(3) The Board shall consider the assertion of disqualification on the record as a preliminary matter at the hearing before any other action is initiated.

Effective date: October 1, 1983. Last amendment

effective: October 28, 1998.

(Auth: Section 34-11-35, Section 34-11-11, Section 41-22-18 (a); Code of Alabama 1975)

CHAPTER 330-X-17 SEVERABILITY

330-X-17-.01 Severability

330-X-17-.01 Severability. If any of the Rules and Regulations of the Board which shall be known as "The Alabama State Board of Licensure for Professional Engineers and Land Surveyors Administrative Code" or any part thereof, or any sentence, paragraph, clause, phrase or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each Rule and/or any portions thereof, are severable.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

CHAPTER 330-X-18 AMENDMENT OF RULES

- 330-X-18-.01 Petition for Adoption of Rules
- 330-X-18-.02 Notice
- 330-X-18-.03 Public Comments
- 330-X-18-.04 Board Decision
- 330-X-18-.05 Emergency Rules
- 330-X-18-.06 Compliance with Administrative Procedure Act

330-X-18-.01 Petition for Adoption of Rules.

(1) Any person who wishes to propose that the Board adopt, repeal or amend any rule may file a petition for adoption of rules on a form as provided by the Board.

(2) The Board shall meet and consider any petition for adoption, repeal or amendment within ninety days of its submission.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-8; Code of Alabama 1975)

330-X-18-.02 Notice.

(1) The Board shall give at least 35 days' notice of any proposed action on any rule by publication in the Alabama Administrative Monthly in compliance with the Alabama Administrative Procedure Act, Section 41-22-5(a)(1), Code of Alabama 1975.

(2) Any person who wishes to receive notice by mail of all proposed actions on rules may do so by requesting such notice from the Executive Director and pay an annual charge of \$50 to cover costs of the mailings.

All annual subscriptions begin October 1 and expire September 30.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-5, Code of Alabama 1975)

330-X-18-.03 Public Comments. The Board shall permit all interested persons reasonable opportunity to submit data, views or arguments concerning any proposed rule action. Data, views or arguments submitted in writing must be received by the Executive Director before the date specified in the notice. Upon written request, a public hearing will be held.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-5; Code of Alabama 1975)

330-X-18-.04 Board Decision.

(1) The Board shall consider all written and oral submissions concerning every proposed rule action. Upon adoption of a rule, if conflicting views are submitted on the proposed rule, the Board shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling any considerations urged against its adoption.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-5; Code of Alabama 1975)

330-X-18-.05 Emergency Rules. In the event the Board finds that an immediate danger to the public health, safety, or welfare requires adoption of a rule upon fewer than 35 days' notice or that action is required by or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than 35 days' notice, the Board may adopt an emergency rule under the provisions of the Administrative Procedure Act, Section 41-22-5(b), Code of Alabama 1975.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-5; Code of Alabama 1975)

330-X-18-.06 Compliance with Administrative Procedure Act. All rules adopted by the Board shall otherwise substantively and procedurally comply with the provisions of the Alabama Administrative Procedure Act, Chapter 22, Title 41, Code of Alabama 1975.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)