

**State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Design Professionals
Board of Registration for Professional Engineers
1511 Pontiac Avenue, Bldg. 68
Cranston, Rhode Island 02920**

Public Notice of Proposed Rulemaking

Pursuant to the provisions of 5-8-8, 42-14-17, and 42-35-3 of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to propose Rules and Regulations for Professional Engineering in the State of Rhode Island.

The purpose of this regulation is to create a new comprehensive regulation that reflects recent statutory amendments and incorporate policy positions. The Department proposes the simultaneous adoption of the Rules and Regulations for Professional Engineering in the State of Rhode Island and the repeal of the existing Administrative Rules in order to: i) re-organize the Administrative Rules to be consistent with the NCEES (National Council of Examiners for Engineering and Surveying) while still conforming to RI Laws; ii) track definitions more closely to NCEES for clarity and consistency; iii) direct registrants to the website for current information; iv) allow a roster of licensees to be posted on the Board's website; v) change the number of times a registrant may take an exam with additional guidelines that must be met for retaking an exam; vi) allow individuals with a science degree and a masters degree in engineering to obtain licensure; vii) incorporate the Code of Ethics; and viii) confirm statutory and administrative basis for the function and role of the Board of Registration for Professional Engineers, and clarify complaint procedures, and disciplinary processes.

The proposed regulation and concise summary of the proposed new regulation are available for public inspection at www.dbr.ri.gov, in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or by email to Neena.Savage@dbr.ri.gov or by calling Neena Sinha Savage at (401) 462-9540.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by February 19, 2014 to Neena Sinha Savage, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, RI 02920, (401) 462-9540, Neena.Savage@dbr.ri.gov. A public hearing to consider the proposed amendments shall be held on **April 4, 2014 at 9:00 am** at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard.

All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email DBR.directorofficeinquiry@dbr.ri.gov at least three (3) business days prior to the hearing.

Paul McGreevy
Director, Department of Business Regulation

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION

Division of Design Professionals
1511 Pontiac Avenue, Building 68
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RULES AND REGULATIONS
FOR PROFESSIONAL ENGINEERING
IN THE STATE OF RHODE ISLAND

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110. INTRODUCTION

110.10 General Provisions

R.I. Gen. Laws § 5-8-1 et seq. establishes the Board of Registration for Professional Engineers (hereinafter Board) and sets forth its jurisdiction and powers. The duties of the Board are set forth in said chapter of the General Laws.

It is the function of the Board to regulate the practice of engineering within the State of Rhode Island as defined by the General Laws. These regulations are established for the purpose of describing the practices and procedures of the Board of Registration for Professional Engineers, which is one component of the Division of Design Professionals within the Department of Business Regulation (DBR) (pursuant to R.I. Gen. Laws § 5-84-1 et seq.) and to delineate application, registration, professional responsibilities, and procedural and technical standards for the practice of Professional Engineering in the State of Rhode Island. All actions of the Board as described herein are subject to the approval of the Director pursuant to R.I. Gen. Laws §§ 5-8-3(b), 8(a)(1), 18(a), (b), and 5-84-1 et seq.

The term "Board" wherever used in these regulations shall be deemed to refer to the Board of Registration for Professional Engineers or, when the context permits, to the relevant Administration or personnel thereof.

All statutory references to the Rhode Island General Laws are to the Rhode Island General Laws of 1990, as amended and Chapter 73, Article 3, Section 13(a), of the 2007 Public Laws and further amended by Chapter 100, Article 9 Substitute A as Amended, Section 13(a), of the 2008 Public Laws. The Rhode Island General Laws also referred to within as the "General Laws of Rhode Island" or "R.I. Gen. Laws §".

110.20 Definitions

1. Engineer—The term "Engineer," within the intent of these rules and regulations, shall mean an individual who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience.

2. Professional Engineer—The term "Professional Engineer," as used in these rules and regulations, shall mean an individual who has been duly licensed as a professional engineer by the Board. The board may designate a professional engineer, on the basis of education, experience, and examination, as being licensed in a specific discipline or branch of engineering signifying the area in which the engineer has demonstrated competence.

2.a. —The term "Professional Engineer" shall mean a person who, by reasons of the person's knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience is qualified to engage in engineering practice as defined in R.I. Gen. Laws § 5-8-2(g).

3. Engineer Intern—The term “Engineer Intern,” as used in these rules and regulations, shall mean an individual who has been duly certified as an engineer intern by the Board.
4. Practice of Engineering—The term “Practice of Engineering,” as used in these rules and regulations, shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, expert technical testimony, evaluation, planning, design and design coordination of engineering works and systems, teaching of advanced engineering subjects, performing evaluation surveys and studies, and the review and/or management of construction for the purpose of monitoring and/or ensuring compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, communication systems, transportation systems, and industrial or consumer products, or equipment of a control systems, communications, mechanical, electrical, hydraulic, pneumatic, chemical, environmental, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of any engineering services.
Design coordination includes the review and coordination of those technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, surveyors, and other professionals working under the direction of the engineer.
A person shall be construed to practice or offer to practice engineering, within the meaning and intent of these rules and regulations, who practices any discipline or branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents the person to be a professional engineer, or through the use of some other title implies that the individual is a professional engineer or that the person is licensed or authorized under these rules and regulations; or who holds the person out as able to perform, or who does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering.
5. The term in responsible charge as applied to the Professional Engineer shall mean a Registrant of the Board who exerts direct control and personal supervision over all activities associated with and defined as engineering. An engineer in responsible charge must also exert and have authority to supervise all such regulated activities by the firm with whom he or she is employed or associated with.

120.1 This chapter describes the operation of the Board, the duties of the various officers and committees of the Board and the procedures for the conduct of the Board meetings.

The name of this Board shall be State Board of Registration for Professional Engineers. For the purpose of brevity this organization shall be subsequently referred to as the "Board".

The term "Chairman" wherever used in these regulations shall be deemed to refer to the Chairman of the Board. When used in connection with proceedings before the Board, the term "Chairman" shall also include the hearing officer conducting any hearing or prehearing for the Board.

120.2.1 In administering these rules and regulations and formulating its procedures, the Board recognizes three (3) fundamental obligations:

120.2.2 To respect the right to means of a livelihood of any individual who has conscientiously and properly prepared to practice Professional Engineering.

120.2.3 To protect the public, as far as possible, within the limits of the rules and regulations from such dangers, affecting life, health and property, as may arise from the attempt of incompetent or unethical persons to practice this profession.

120.2.4 All Engineers and Engineers-In-Training shall conform to the Code of Ethics adopted by this Board in their professional activities.

120.10 Board Appointments, Terms

The Board shall elect or appoint annually at its stated meeting at the location and time shown on the Board of Registration for Professional Engineer's official web site (www.bdp.state.ri.us) of each January the following officers to serve for one year from date of such election or appointment, a Chairman, Vice-Chairman, and a Secretary, all of whom shall be members of the Board. Any Officers so elected shall receive not less than three (3) affirmative votes.

120.10.1 Duties

120.10.1.1 Chairman

The Chairman shall, when present, preside at meetings and shall appoint all committees. The Chairman shall otherwise perform all duties pertaining to the office of Chairman and shall sign all certificates, vouchers and other official documents.

120.10.1.2 Vice-Chairman

The Vice-Chairman shall, in the absence or incapacity of the Chairman, exercise the duties and shall possess all the powers of the Chairman.

120.10.1.3 Secretary

The secretary shall sign all certificates and oversee the administrative assistant's duties.

The Board's Administrative Assistant shall in coordination with the Secretary: Conduct and care for all correspondence in the name of the Board and shall record and file all applications, certificates of registration, examinations, registrations and revocations; be in possession of the official seal and affix same to all official documents upon order of the Chairman and Board; keep a record of all meetings, in the form approved by the Board; maintain a proper account of all the business of the Board; The administrative assistant shall prepare a roster showing the names and places of business of all registered professional engineers and ensure their listing on the Board's web site.

120.10.2 Vacancies

If for any reason vacancies shall occur in the office of Chairman, Vice-Chairman and/or Secretary, the Offices or Office shall be filled by an election of the Board Members either at a regular stated meeting or a special meeting called for that purpose. Any Officers so elected shall receive not less than three (3) affirmative votes.

A quorum shall consist of three (3) members.

At the same stated meeting the Board may elect or appoint committees as listed below to serve for one year or until his or her successor is elected; said secretary may or may not be a member of the Board.

1. Executive
2. Finance
3. Rules and Regulations
4. Examinations
5. Information
6. Complaint

1. Executive Committee:

The Executive Committee may consist of three (3) members, of which the Chairman of the Board shall be Chairman. Its duties shall be to transact all business during the interval between meetings and to make a report thereon to the Board at its next meeting.

2. Finance

3. Rules and Regulations Committee

The Rules and Regulations Committee may consist of two (2) members, and may from time to time consider and recommend to the Board such modifications of the by-laws and rules and regulations governing examinations, registrations and procedures as will give the best operating results.

4. Examinations Committee:

The committee on examinations shall consist of all members of the Board. Their duties shall be to coordinate with the National Council of Examiners for Engineering and Surveying on the nature and scope of the examinations to be held by the Board and verify examination scores.

5. Information Committee:

The Committee on Information may consist of three (3) members, and its duties shall be to recommend to the Board data for publication and circulation setting forth the policy, purpose and principles of the Board.

6. Complaint Committee:

The Committee shall consist of one (1) member and he shall, with the Secretary, screen all complaints and decide on the procedure for their treatment. He shall, further, act as complaint officer for such complaints as progress to that stage. The Board may appoint its legal counsel to fulfill the purpose of this committee.

120.20 Board Qualifications

120.20.1 Each professional engineer member of the Board shall be a citizen of the United States and a resident of this jurisdiction. They shall have been engaged in the lawful practice of engineering as a professional engineer for at least 12 years, shall have been in responsible charge of engineering projects for at least 5 years, and shall be a licensed professional engineer in this jurisdiction as required in R.I. Gen. Laws § 5-8-4.

120.30 Board Compensation, Expenses

Pursuant to R.I. Gen. Laws § 5-8-5 The chairperson and each other member shall not be compensated for their service on the Board but shall be reimbursed for all traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of R.I. Gen. Laws § 5-8-1 et seq.

120.50 Board Organization and Meetings

120.50.1 Organization

120.50.1.1 Offices

The offices of the Board shall be at the location shown on the Board of Registration for Professional Engineer's official web site (www.bdp.state.ri.us).

120.50.1.2 Seal

The seal of the Board shall be as follows: an embossed circular seal two and one-fourth inches in diameter consisting of two concentric circles, the outer circle to be two and one-eighth inches in diameter, the inner one to be one and three-eighths in diameter and containing the great seal of the State of Rhode Island, and the words "State of Rhode Island, and the words "State Board of Registration for Professional Engineers" below.

120.50.1.3 Fiscal Year

The fiscal year of the Board shall end on June 30 of each year.

120.50.2 Meetings

120.50.1 Not less than six stated regular meetings shall be held each year at the location and time shown on the Board of Registration for Professional Engineer's official web site (www.bdp.state.ri.us), unless otherwise specified by notice. Special meetings may be called at any time by order of the Chairman or by a majority of Board members. Due notice of special meeting shall be given to each member.

120.50.2 *Roberts' Rules of Order* shall govern the procedures of the Board except as otherwise provided by the statutes or Rules and Regulations.

120.60 Board Powers

120.61 A "Code of Ethics" designed for the protection of the public shall be prepared and published by the Board. It will be published on the Board of Registration for Professional Engineer's official web site (www.bdp.state.ri.us).

120.62 RULES OF PROFESSIONAL CONDUCT - A CODE OF ETHICS

120.62.1 Preamble

To comply with R.I. Gen. Laws § 5-8-1 *et seq.*, which is to safeguard life, health, and property, to promote the public welfare, and to maintain a high standard of integrity and practice, the Rhode Island Board of Registration

for Professional Engineers has developed the following "Rules of Professional Conduct" as a Code of Ethics.

120.62.2 These rules shall be binding on every person holding a certificate of registration as a Professional Engineer and on all partnerships, sole proprietorships, corporations or other legal entities authorized to offer or perform engineering services in this State. All Registrants under the Rhode Island statute are required to be familiar with the registration statute and these rules. The "Rules of Professional Conduct" delineate specific obligations the Registrant must meet. In addition, each Registrant is charged with the responsibility of adhering to standards of the highest ethical and moral conduct in all aspects of the practice of professional engineering.

120.62.2.1 All Registrants shall perform their services only in the areas of their competence according to current standards of technical competence.

120.62.2.2 Registrants shall recognize their responsibility to the public and shall represent themselves before the public only in an objective and truthful manner.

120.62.2.3 Registrants shall avoid conflicts of interest and faithfully serve the legitimate interests of their clients, employers, and customers within the limits defined by these rules. Registrants' professional reputation shall be built on the merit of their services and they shall not compete unfairly with others.

120.62.2.4 The "Rules of Professional Conduct" as promulgated herein are enforced under the powers granted to the Board under R.I. Gen. Laws § 5-8-1 *et seq.*

120.62.2.5 In these rules, the word "Registrant" shall mean any person, corporation, partnership, sole proprietorship or other legal entity holding a license or certificate issued by the Rhode Island Board of Registration for Professional Engineers.

120.62.3 Obligations to Society

120.62.3.1 Registrants, in the performance of their services for clients, employers, and customers, shall be cognizant that their first and foremost responsibility is to the public welfare.

120.62.3.2 Registrants shall approve and seal only those design documents that conform to accepted engineering standards and safeguard the life, health, property, and welfare of the public.

120.62.3.3 The application of a professional engineer seal shall indicate that the engineer has exercised direct control and personal supervision over the

work to which the seal is affixed. Therefore, no Registrant shall affix a name, seal or certification to a plat, drawing, design, specification or other work constituting the practice of engineering which has been prepared by an unlicensed or uncertified person or firm unless such work was performed under the direct control and personal supervision of the engineer. If the engineer is unable to seal completed professional engineering work, such work may be sealed by another registered engineer after thorough review and verification that the work has been accomplished to the same extent that would have been exercised if the work had been done under the direct control and personal supervision of the Registrant affixing the professional seal.

120.62.3.4 A principal or authorized licensed or certified employee shall apply a seal to final and complete cover sheets of plans, drawings, plats, technical reports and specification and to each original sheet of plans, drawing or plats, prepared by the engineer or someone under his or her direct control and personal supervision.

120.62.3.4.1 All seal imprints on final documents shall bear an original signature and date.

120.62.3.4.2 Incomplete plans, documents and sketches, whether advance or preliminary copies, must be so identified and need not be sealed or signed.

120.62.3.4.3 All plans, drawings or plats prepared by the Registrant shall bear the Registrants name or firm name, address and project name.

120.62.3.4.4 Application of the seal and signature indicates acceptance of responsibility by the Registrant sealing said documents for all work shown thereon unless clearly indicated in writing on each sheet.

120.62.3.4.5 The failure to conform to these requirements shall constitute the failure to seal a document.

120.62.3.5 Registrants shall notify their client or employer and such other authority as may be appropriate when their professional judgment is overruled under circumstances where life, health, property, or welfare of the public is endangered. Such notification shall be in writing when and where practicable.

120.62.3.6 Registrants shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony.

120.62.3.7 Registrants shall express a professional opinion publicly only when it is founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

120.62.3.8 Registrants shall issue no statements, criticisms, or arguments on technical matters which are inspired or paid for by interested parties, unless they explicitly identify the interested parties on whose behalf they are speaking, and reveal any interest they have in the matters.

120.62.3.9 Registrants shall not permit the use of their name or firm name by, nor associate in business ventures with, any person or firm which is engaging in fraudulent or dishonest business practices.

120.62.3.10 Registrants having knowledge of possible violations of any of these "Rules of Professional Conduct" must provide the Board with the information necessary for the Board to render a final determination of the propriety of the conduct of any Registrant.

120.62.3.11 Registrants shall, upon request or demand, produce to the Board, or any of its agents, any plan, drawing, document, book, record or copy thereof in his possession concerning a transaction covered by these rules and shall cooperate in the investigation of a complaint filed with the Board against another Registrant.

120.62.4 Obligations to Clients or Employer

120.62.4.1 Registrants shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering involved. Registrants are not to be restricted to one discipline, rather, as Professional Engineers they are to practice in their fields of competence, provided however, that in the event this Board shall issue registration and/or licenses in a specific area of practice, no person/firm and/or Registrant shall practice in that area unless registered to do so by this Board.

120.62.4.2 Registrants shall not affix their signatures or seals to any drawings or documents dealing with subject matter in which they lack competence, nor to any such drawing or document not prepared under their direct control and personal supervision.

120.62.4.3 Registrants may accept assignments, as the prime design professional, to oversee and to coordinate an entire project, provided that each design segment is signed and sealed by the registrant or individual responsible for preparation of that design segment.

120.62.4.4 Professional Engineers in their capacity as the prime design professional will oversee and coordinate the work of other design professionals embracing those services or work in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work, or projects wherein the public welfare or the safeguarding of life, health, or property is involved or concerned.

120.62.4.5 Registrants shall not reveal facts, data, or information obtained in a professional capacity without the prior consent of the client or employer except as authorized or required by law.

120.62.4.6 Registrants shall not solicit or accept financial or other valuable considerations, directly or indirectly, from contractors, their agents, or other parties in connection with work for clients or employers.

120.62.4.7 Registrants shall make full prior disclosures to their clients or employers of potential conflicts of interest or other circumstances which could influence or appear to influence their judgment or the quality of their service.

120.62.4.8 Registrants shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

120.62.4.9 Registrants shall not solicit or accept a professional contract from a government body on which a principal or officer of their organization serves as a member. Conversely, Registrants serving as members, advisors, or employees of a governmental body or department, who are the principals or employees of private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body which they serve.

120.62.4.10 Registrants shall not participate in bribery in the course of soliciting, maintaining, or increasing work.

120.62.5 Obligations to Other Registrants

120.62.5.1 Registrants shall not falsify or permit misrepresentation of their or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in prior assignments or the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments.

120.62.5.2 Registrants shall not offer, give, solicit, or receive, either directly or indirectly, any commission or gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by a public authority.

120.62.5.3 Registrants shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other Registrants, nor indiscriminately criticize other Registrants work.

120.62.5.4 Registrants shall not knowingly use the design, drawings or work of another design professional without the original design professional's knowledge and consent. In the event the consent has been obtained, a thorough review of the design, drawings or work of the design professional will be assumed.

120.62.5.5 Registrants shall be in good standing in every jurisdiction where registered or where engaged in the practice of engineering.

120.62.5.6 Applicants for registration with the Rhode Island Board of Registration for Professional Engineers shall be in good standing in every jurisdiction where licensed or certified and shall not have had a license or certificate suspended, revoked or surrendered in connection with a disciplinary action. Any person or firm applying for registration in this State shall fully set forth the facts, dates and circumstances of any prior investigation and/or disciplinary action by any other jurisdiction. The failure to do so shall constitute sufficient grounds for denial of any application submitted to this Board.

120.90 Roster

A complete roster showing the names, last known addresses, and license or certificate number of all professional engineers, and firms holding a certificate of authorization will be published on the Board of Registration for Professional Engineer's official web site (www.bdp.state.ri.us).

130 LICENSURE

130.10 General Requirements for Licensure

In accordance with the provisions of R.I. Gen. Laws 5-8-1 it shall be "unlawful for any person to practice, or to offer to practice, engineering in this State, or to use in connection with his or her name or otherwise assume, or advertise any title or description tending to convey the impression that he or she is an engineer unless that person has been duly registered or exempted under the provisions R.I. Gen. Laws § 5-8-1.

In addition, pursuant to the provisions of R.I. Gen. Laws § 5-8-24, "the practice or offer to practice engineering" by a corporation, partnership or sole proprietorship (here and after referred to as "firm"), through individuals is permitted provided that said individuals are:

1. in direct control of such practice,
2. exercise personal supervision of all personnel who act in behalf of the firm and
professional and technical matters, and
3. are registered under the provisions of this chapter, and
4. that said firm has been issued a Certificate of Authorization by the Board of

Registration. (R.I. Gen. Laws § 5-8-24)

A firm "practice of engineering" shall be defined as "any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work such as consultation, investigation, evaluation surveys, planning and design of engineering systems and the supervision of construction for the purpose of assuring compliance with specification; and embracing those services or work in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work, or projects wherein the public welfare or the safeguarding of life, health, or properties involved or concerned." R.I. Gen. Laws § 5-8-2.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practice any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, cards or in any other way represents him or herself to be an engineer, or through the use of some other title implies that he or she is an engineer or that he or she is registered under this chapter; or who holds him or herself out to as able to perform, or who does perform any engineering service or work or any other service designated by the practitioner or recognized as engineering". (R.I. Gen. Laws § 5-8-2)

Any individual and/or firm who submits a response to a request for proposals (RFP) or any other bidding method which requires the performance of any engineering work or services shall be construed to be offering to practice engineering in this State.

130.11 Engineers in Responsible Charge – Duties

130.11.1 A Professional Engineer in responsible charge shall be required to stamp any and all drawings, reports, documents, specifications, plats or other submissions which are required to be stamped by that firm. The engineer in responsible charge shall also be held professionally accountable for the accuracy and correctness of any such documents submitted as well as for the quality and professionalism of the work performed.

130.11.2 A Professional Engineer designated as being in responsible charge shall have the authority to approved or disapprove on behalf of the firm any and all activities associated with the regulated profession and such decisions and/or determinations by that individual may not be overturned or altered by any other person or persons associated with that firm except with the approval of the engineer in responsible charge. No registered person or persons may be designated as being in responsible charge of engineering work by any firm, corporation, partnership or sole proprietorship unless and until such time as such designation is done in writing signed by the person in responsible charge.

130.11.3 Upon the termination of any designation as in responsible charge, the Registrant of the respective Board must notify the Rhode Island Board of Registration for Professional Engineers within ten (10) days in writing of his termination from the position of being in responsible charge. Until such time as said notice is received, the designated individual shall remain in responsible charge and shall be held accountable for the work performed by that firm, partnership, or sole proprietorship.

130.20 Application and Fees

130.20.1 Any person desiring to practice Professional Engineering in the State of Rhode Island shall apply to the Board for a certificate of Registration and shall submit evidence of his or her qualifications to the Board on forms furnished by the Board, and, upon the approval of the Board, will be issued a certificate as a Professional Engineer.

130.20.2 Professional Engineers and any other person or entity registered under the Laws of the State of Rhode Island are requested to keep their certificates of registration issued by the Board posted conspicuously in their principal place of business, where the public can examine said certificate.

130.20.3 Professional Engineers under this these rules and regulations are expected to practice within their area of competence. This requires that all applicants declare their appropriate engineering discipline of competence and practice. These disciplines are as follows:

- Civil
- Structural
- Electrical
- Fire Protection
- Mechanical
- Chemical
- Environmental

The Board will issue Certificates of Registration to those applicants who demonstrate qualifications acceptable to the Board, for a specific discipline.

130.20.4 Pursuant to R.I. Gen. Laws § 5-8-14(d) any party aggrieved by the Board's decision regarding license issuance or renewal may, within 10 days of the decision, appeal the matter to the Director of the department of business regulation by submitting a written request for a formal hearing to be conducted with the provisions of R.I. Gen. Laws § 5-8-18.

140 **LICENSEES APPLICATION FOR REGISTRATION AS A PROFESSIONAL ENGINEER AND FOR CERTIFICATION AS AN ENGINEER-IN-TRAINING**

140.1 Applications for Registrations as a Professional Engineer and certification as an Engineer-In-Training shall be made on forms furnished by the Board.

140.1.2 Application for certification as an Engineer-In-Training shall, in approval, admit the applicant to examination, the passage of which shall entitle the applicant to a certificate as an Engineer-In-Training.

140.2 Classes of Applicants

Each applicant shall designate the classification in the following schedule of minimum requirements, under which he or she makes application.

140.2.1 Professional Engineer

140.2.1.1 By endorsement without further examination. Acceptable evidence of registration in good standing by comparable written examination in another State, territory or possession of the United States, the District of Columbia, or of any foreign country and/or a certificate of qualification from the NCEES showing the applicant to have qualifications meeting the requirements of the statutes, as defined in R.I. Gen. Laws § 5-8-11(1)(a). All such applicants shall be required to verify such information furnished to the Board in a form satisfactory and approved by the Board.

140.2.1.2 By graduation, experience and examination. Graduates of engineering schools in an ABET approved four-year engineering curriculum, with four years of active practice indicating experience of a grade and character satisfactory to the Board and passing an NCEES examination in the fundamentals of engineering and passing an NCEES examination in the principles and practice of engineering. As defined in R.I. Gen. Laws § 5-8-11(1)(b).

140.2.1.3 Graduates of engineering schools in an ABET/EAC approved four-year engineering curriculum, with twelve (12) years or more experience of a grade and character, satisfactory to the Board, and passing an NCEES examination in the Principles and Practice of Engineering, as defined in R.I. Gen. Laws § 5-8-11(1)(b). In order to satisfy the requirements of this provision, the applicant must demonstrate that for each of the twelve (12) years submitted for experience purposes that the applicant was directly employed within the engineering profession and was principally employed in the engineering profession during each of the years submitted.

140.2.1.4 Graduates with a Bachelor's degree in a science, mathematics, or engineering technology curriculum and an MS Degree in engineering from a college or university that is ABET Accredited institution for the BS Degree programs with six years of active engineering practice indicating experience of a grade and character satisfactory to the Board and passing

an NCEES examination in the fundamentals of engineering and passing an NCEES examination in the principles and practice of engineering.

140.3 Submission of Applications

140.3.1 Registrants in this Board shall be subject to the following interpretations of registration laws in regard to this Board acting upon individual applications and renewals.

140.3.1.1 Each person shall be required to submit applications or renewal applications in a timely fashion in accordance with the schedules established by the Board. Individuals who fail to submit applications for registration or renewals in accordance with the deadlines established by the Board shall be considered to have not complied with the terms and conditions of their license or license application. In the event that the Board shall make such a determination, individuals who were previously registered shall be prohibited from the practice of engineering until such time as the Board has reviewed and accepted their application or renewal of their license.

140.3.1.2 Any individual who shall engage in the practice of engineering while in an unregistered status shall be determined to be in willful violation of the registration laws of the State of Rhode Island and shall be dealt with accordingly. Any person who shall submit or stamp documents during a period when said person is not registered shall be considered to be in willful violation of the registration laws of the State of Rhode Island and shall be subject to being denied registration or denied renewal of past registrations for said actions.

140.3.1.3 Every applicant for registration or a certificate of authorization, or a renewal thereof, shall be responsible for the accuracy and correctness of the information contained on the application. The Board will not alter any application nor will the Board accept any verbal changes in any application before the Board. Each applicant must review his/her application carefully and, if changes are to be made, they must be made by the applicant in writing.

140.4 It is the policy of the Board to not review with any applicant any examination administered to applicants.

140.5 Board Policy on the Number of Times an Applicant May Be Allowed to Take the Fundamentals of Engineering (FE) or the Professional Engineers (P.E.) Exam.

140.5.1 A qualified applicant will be allowed to take the FE or P.E. Exam in a specific discipline a total of three (3) times. This would be an aggregate total regardless of where or when the exam was taken.

140.5.2 An applicant who has failed the FE exam or the PE exam three (3) times in a discipline, may request permission to take the exam for an additional time, if before each additional exam attempted, they agree to complete an

appropriate Board approved review course or advanced engineering courses in areas of their discipline and submit written proof to the Board of having successfully completed such course or courses.

140.10 Certificates of Licensure, Seals

Each Professional Engineer hereunder may upon registration obtain a stamp/seal of the design indicated below, bearing the Registrants name, serial number and the legend, Registered Professional Engineer.” Final drawings, plats, and reports prepared by a Registrant shall, when issued, be signed and stamped with the said stamp/seal or facsimile thereof.

140.11 Electronic Signatures

The Board allows electronic signatures and/or seals on plans submitted to government agencies, such as municipalities and state agencies that accept electronic documentation and electronic signatures and seals as allowed by the Uniform Electronic Transactions Act adopted under R.I. General Laws § 42-127.1-1 et seq.

It is incumbent on the Professional Engineer to ensure their electronic signatures and seals are properly encoded to avoid misuse by other than the licensed engineer.

140.20 Expirations, Renewals and Reinstatement to Active Practice

140.20.1 Certificates of licensure shall expire on the last day of the month of June in the odd years following their issuance and shall become invalid after that date unless renewed. It shall be the duty of the Board to notify every individual licensed under this Act of the date of the expiration of the certificate of licensure and the amount of the fee required for its renewal. Such notice shall be mailed to the licensee at their last known address at least 1 month in advance of the date of the expiration of the certificate.

140.20.2 Renewal may be affected at any time prior to or during the month of June by payment of a fee as established by regulation of the Board. Renewal of an expired certificate may be affected under rules promulgated by the Board regarding requirements for re-examination and penalty fees.

140.30 Issuance of Duplicate Certificates

A duplicate certificate of licensure or enrollment document to replace any certificate or card lost, destroyed, or mutilated may be issued subject to the rules of the Board. A fee established by regulation shall be paid for each issuance.

150 DISCIPLINARY ACTION

150.10 Grounds for Disciplinary Action—Licensees

150.10.1 Pursuant to R.I. Gen. Laws §5-8-18(a) the Board shall have the power to recommend suspension, revocation, placement on probation, imposition of a fine, recovery of costs, and/or reprimand, or refusal of the issuance, restoration, or renewal of a license or intern certification to any licensee that is found to have engaged in:

1. Any fraud or deceit in obtaining or attempting to obtain or renew a certificate of licensure
2. Any negligence, incompetence, or misconduct in the practice of engineering
3. Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony, whether or not related to the practice of engineering; and conviction of or entry of a plea of guilty or nolo contendere to any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is dishonesty or which is directly related to the practice of engineering.
4. Failure to comply with any of the provisions of these rules and regulations or any of the rules or regulations of the Board.
5. Discipline by another jurisdiction, foreign country, or the United States government, if at least one of the grounds for discipline is the same or substantially equivalent to those contained in these rules and regulations.
6. Failure to provide information requested by the Board as a result of a formal or informal complaint to the Board which alleges a violation of these rules and regulations.
7. Knowingly making false statements or signing false statements, certifications, or affidavits in connection with the practice of engineering.
8. Aiding or assisting another person in violating any provision of these Law or the rules or regulations of the Board.
9. Violating any terms of probation imposed by the Board or using a seal or practicing engineering while the licensee's license is inactive or restricted.

10. Signing, affixing, or permitting the licensee's seal or signature to be affixed to any specifications, reports, drawings, plans, plats, design information, construction documents or calculations, surveys, or revisions thereof which have not been prepared by the licensee or under the licensee's responsible charge.

11. Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

12. Providing false testimony or information to the Board.

13. Providing engineering services outside any of the licensee's areas of competence.

150.10.2 In addition to or in lieu of any other sanction provided in this section, any licensee or intern that violates a provision of any rule or regulation of the Board may be assessed a fine in an amount determined by the Board of not more than the amount specified in accordance with the current applicable statute, R.I. Gen. Laws § 5-8-18 for each offense or R.I. Gen. Laws § 5-84-5.

150.10.2.1 Each day of continued violation may constitute a separate offense.

150.10.2.2 In determining the amount of fine to be assessed pursuant to this section, the Board may consider such factors as the following:

1. Whether the amount imposed will be a substantial economic deterrent to the violation;
2. The circumstances leading to the violation;
3. The severity of the violation and the risk of harm to the public;
4. The economic benefits gained by the violator as a result of non-compliance;
5. The interest of the public.

150.20 Disciplinary Action Procedures—Licensees

150.20.1 Any person or entity, including the Board itself, may file a complaint alleging a violation of any provision of the rules or regulations of the Board against any licensee or against any intern.

150.20.2 A complaint shall be in writing and state specifically the facts on which the complaint is based.

150.20.2.1 Complaints shall be submitted using the complaint form as indicated on the Board of Registration for Professional Engineer's official web site (www.bdp.state.ri.us)

- 150.20.3 All complaints shall be reviewed by the Board or an investigative committee designated by the Board. After review, the Board or the investigative committee shall recommend, as appropriate, if charges are warranted.
- 150.20.4 All charges, unless dismissed by the Board as unfounded, trivial, or unless settled informally, shall be heard by the Department. The time and place for the hearing shall be fixed by the Department, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such accused individual at least 30 days before the date fixed for the hearing. At any hearing, the accused individual shall have the right to appear in person or by counsel, or both, to cross-examine witnesses in their defense and to produce evidence and witnesses in their defense. If the accused individual fails or refuses to appear at the hearing, the Department may proceed to hear and determine the validity of the charges in the accused individual's absence. All hearings shall be conducted pursuant to Department of Business Regulation Central Management Regulation 2 entitled *Rules of Procedure for Administrative Hearings*.
- 150.20.5 A licensee or intern aggrieved by any action of the Department in levying a fine; recovering costs; reprimanding; placing on probation; denying; suspending; refusing to issue, restore, or renew; or revoking a license or intern certification may appeal the Board's decision to the proper court pursuant to R.I. Gen. Laws § 42-35-14.
- 150.20.6 Any financial sanction assessed pursuant to Section 150.10 of these rules and regulations shall be assessed in a proceeding as provided in this section. Unless the amount of the penalty is paid within 30 Days after the order becomes final, the order shall constitute a judgment and shall be filed and execution issued thereon in the same manner as any other judgment of a court of record.
- 150.20.7 An action to enforce an order under this section may be combined with an action for an injunction.
- 150.20.8 The Board may, upon petition of a licensee or intern to reissue a license or intern certification that has been revoked by the Department, provided that a majority of the Board votes in favor of such reissuance.
- 150.20.8.1 In the event that any individual or firm shall have his license revoked or not renewed for cause, said person shall not be permitted to reapply for registration for a period of not less than five (5) years. Upon re-application, it shall be the burden of the applicant to demonstrate by clear and convincing evidence that sufficient grounds exist to support the applicant's request for registration. The Board may modify this rule on a case by case basis when a license has been "not renewed" due to a license suspension of less than five (5) years duration.

150.30 Grounds for Disciplinary Action—Unlicensed Individuals

150.30.1 Pursuant to R.I. Gen. Laws § 5-8-20(c) in addition to any other provisions of law, the Board shall have the power to fine pursuant to R.I. Gen. Laws § 5-84-5 and recover costs pursuant to R.I. Gen. Laws § 5-8-18 (a)(7) from any unlicensed individual who is found guilty of:

1. Engaging in the practice or offer to practice of engineering in this jurisdiction without being licensed in accordance with the provisions of these rules and regulations.
2. Using or employing the words “engineer,” “engineering,” or any modification or derivative thereof in his or her name or form of business activity except as licensed in these rules and regulations.
3. Presenting or attempting to use the certificate of licensure or seal of a professional engineer.
4. Engaging in any fraud or deceit in obtaining or attempting to obtain a certificate of licensure or intern certification.
5. Impersonating any professional engineer.
6. Using or attempting to use an expired, suspended, revoked, inactive, retired, or non-existent certificate of licensure.

150.30.2 A fine assessed under this section may not exceed fees determined in the amount specified in accordance with the R.I. Gen. Laws §§ 5-84-5 as applicable, and/or modified by the Department for each offense. No further requirements shall be necessary to assess or modify the fine

150.30.3 Each day of continued violation may constitute a separate offense.

150.30.4 In determining the amount of fine to be assessed and recommended pursuant to this section, the Board may consider such factors as the following:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of non-compliance.

5. The interest of the public.

150.40 Disciplinary Action Procedures—Unlicensed Individuals

150.40.1 Any person or entity, including the Board itself, may file a complaint alleging a violation of any provision of the rules or regulations of the Board against any unlicensed individual.

150.40.2 A complaint shall be in writing and state specifically the facts on which the complaint is based.

150.40.3 All complaints shall be reviewed by the Board or an investigative committee designated by the Board. After review, the Board or the investigative committee shall determine or recommend, as appropriate, if charges are warranted.

150.40.4 All charges, unless dismissed by the Board as unfounded, trivial, or unless settled informally, shall be heard by the Department. The time and place for the hearing shall be fixed by the Department, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such accused individual at least 30 days before the date fixed for the hearing. At any hearing, the accused individual shall have the right to appear in person or by counsel, or both, to cross-examine witnesses in their defense and to produce evidence and witnesses in their defense. If the accused individual fails or refuses to appear at the hearing, the Board may proceed to hear and determine the validity of the charges in the accused individual's absence. All hearings shall be conducted pursuant to Department of Business Regulation Central Management Regulation 2 entitled *Rules of Procedure for Administrative Hearings*

150.40.5 If after such hearing a majority of the Department votes in favor of sustaining the charges, the Department shall impose a fine for this unlicensed activity in accordance with R.I. Gen. Laws § 5-84-5 for each count and recover costs from the accused individual.

150.40.6 An individual aggrieved by any action of the Department in levying a fine or recovering costs may appeal the Department's decision to the proper court pursuant to R.I. Gen. Laws § 42-35-14.

150.40.7 Any financial sanction assessed pursuant to this section shall be assessed in a proceeding as provided in this section. Unless the amount of the penalty is paid within 30 days after the order becomes final, the order shall constitute a judgment and shall be filed and execution issued thereon in the same manner as any other judgment of a court of record.

150.40.8 An action to enforce an order under this section may be combined with an action for an injunction.

150.50 Criminal Offenses

150.50.1 Pursuant to R.I. Gen. Law § 5-8-20(c), any individual who shall commit a violation included in R.I. Gen. Law § 5-8-20(a) or (b) shall be guilty of a misdemeanor, and upon conviction by a court of competent jurisdiction shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000) for the first offense and a fine of not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) for each subsequent offense, or imprisonment for not more than one year, or both; and in the court's discretion and upon good cause shown reimburse the board for any and all fees, expenses, and costs incurred by the board in connection with the proceedings, including attorneys' fees, which amount shall be deposited as general revenues; and be subject to, in the board's discretion, public censure or reprimand..

150.50.2 All disciplinary actions will be published on the Board of Registration for Professional Engineer's official web site (www.bdp.state.ri.us) of all disciplinary actions taken by the Board in order to ensure that the public is fully informed as to the identity of the Registrant and nature of the disciplinary action taken by the Board. In addition, the Board shall cause the individuals to be notified in writing of any disciplinary action and furnish to those individuals copies of any notice of discipline taken by the Board.

150.50.3 Individuals who are suspended or revoked from the practice of engineering shall have their name removed from the list of licensed engineers on the Board's web site for the duration of the suspension or permanently when revoked.

160 CERTIFICATES OF AUTHORIZATION FOR FIRMS

160.10 General Requirements for Certificate of Authorization

160.10.1 Pursuant to the provisions of the Rhode Island registration law regarding engineering R.I. Gen. Laws § 5-8-1 et seq., any firm who practices or offers to practice engineering within the State of Rhode Island must obtain a certificate of authorization to do so prior to practicing or offering to practice engineering in this State. That certificate of authorization is issued by this Board after application and review by the Board.

160.10.2 A firm is defined by Rhode Island General Laws as a corporation, partnership, or sole proprietorship. "Firms" which have one (1) person employed by the firm (regardless of the official title of that position i.e. secretary, engineer, etc...), may be eligible for a waiver of the fee assessed for a certificate of authorization if that person is in responsible charge. The decision to grant such "waiver" will be made by the Board after application and review by the Board.

160.10.3 Each firm which obtains a certificate of authorization must designate one or more engineers registered in the State of Rhode Island as being in responsible charge of all engineering work. The failure to so designate an engineer shall result in denial of the application.

160.10.4 Individual registrations are intended to allow Professional Engineers who are not acting under the control, supervision, or authority of a "firm" to practice engineering within the State of Rhode Island. As an individual Registrant, this Board will ascribe personal liability to the work product of that engineer and will not substitute the name of any corporation, partnership and/or sole proprietorship for that of the individual engineer. The obtaining of an individual registration as a Professional Engineer in this State does not entitle a person to a certificate of authorization for a corporation, partnership or sole proprietorship automatically. A certificate of authorization must be applied for and obtained from this Board.

160.10.5 Regardless of the type of registration or certificate obtained from this Board, no person or firm may practice or offer to practice engineering in the State of Rhode Island without proper authorization from this Board. The practice of engineering in this State is defined by R.I. Gen. Laws § 5-8-1 *et seq.* , and is strictly applied by this Board. No person or firm may practice or offer to practice engineering in this State under the "agency" of another person or firm unless full and complete compliance with Rhode Island General Laws has been obtained.

160.10.6 Based upon previous discussions between the Rhode Island Board of Registration for Professional Engineers and the Rhode Island Secretary of State's Office, no firm which offers or represents that it practices or offers to practice engineering in the State of Rhode Island will be permitted to be incorporated as an engineering firm or otherwise register at the Secretary of State's office until such time as this office has confirmed to the Secretary of State's Office (Corporation Division) that a current Certificate of Authorization and/or that an individual registered as a Professional Engineer in the State of Rhode Island is listed as being in responsible charge or associated with that firm. In order to facilitate this process, the Board and the Secretary of State's Office have agreed to the following procedure:

1. The Secretary of State's Office will submit to the Board a listing of any firm who seeks to register with the Secretary of State's Office to practice or offer to practice engineering in the State of Rhode Island.
2. Upon receipt of the name from the Secretary of State's Office, the Board will review the name and determine whether or not the individual is registered and/or that a Certificate of Authorization has been approved and issued.

3. Upon determination by this Board as to the status of any registration, the Board will telephonically notify the Secretary of State's Office of the results of that review and will follow up with the form memo listing the name of the individual and/or the firm and the status of any application.
4. This process must be completed within forty-eight (48) hours of the receipt of the identifying information from the Secretary of State's Office.

160.50 Expirations and Renewals

160.50.1 Certificates of authorization for firms shall expire on the last day of the month of June in the even years following their issuance and shall become invalid after that date unless renewed. It shall be the duty of the Board to notify every firm holding a certificate of authorization under this Act of the date of the expiration of the certificate of authorization and the amount of the fee required for its renewal. Such notice shall be mailed to the firm at its last known address at least 1 month in advance of the date of the expiration of the certificate.

160.50.2 Renewal may be affected at any time prior to or during the month of June by payment of a fee as established by regulation of the Board. Renewal of an expired certificate may be affected under rules promulgated by the Board regarding requirements for penalty fees.

160.60 Issuance of Duplicate Certificates

A duplicate certificate of authorization to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the Board. A fee established by regulation shall be paid for each issuance.

160.70 Grounds for Disciplinary Action—Firms Holding a Certificate of Authorization

160.70.1 Pursuant to R.I. Gen. Laws §5-8-18(a) the Board shall have the power to recommend suspension, revocation, placement on probation, imposition of a fine, recovery of costs, and/or a reprimand, or refusal of the issuance of, restoration of, or renewal of a certificate of authorization to any firm holding a certificate of authorization that is found to have engaged in:

1. Any fraud or deceit in obtaining or attempting to obtain or renew a certificate of authorization.
2. Any negligence, incompetence, or misconduct in the practice of engineering.
3. Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony, whether or not related to the practice of

engineering; and conviction of or entry of a plea of guilty or nolo contendere to any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is dishonesty or which is directly related to the practice of engineering.

4. Failure to comply with any of the provisions of this Act or any of the rules or regulations of the Board.
5. Discipline by another jurisdiction, foreign country, or the United States government, if at least one of the grounds for discipline is the same or substantially equivalent to those contained in these rules and regulations.
6. Failure to provide information requested by the Board as a result of a formal or informal complaint to the Board which alleges a violation of these rules and regulations.
7. Knowingly making false statements or signing false statements, certifications, or affidavits in connection with the practice of engineering.
8. Aiding or assisting another person in violating any provision of the Law or the rules or regulations of the Board.
9. Violating any terms of probation imposed by the Board or using a seal or practicing engineering while the firm's certificate of authorization is inactive or restricted.
10. Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
11. Providing false testimony or information to the Board.

160.70.2 In addition to or in lieu of any other sanction provided in this section, any firm holding a certificate of authorization that violates a provision of the Law or any rule or regulation of the Board may be assessed a fine in an amount determined by the Board of not more than the amount specified in accordance with the R.I. Gen. Laws §§ 5-8-18 and/or 5-84-5, as applicable.

160.70.2.1 Each day of continued violation may constitute a separate offense.

160.70.2.1 In determining the amount of fine to be assessed pursuant to this section, the Board may consider such factors as the following:

1. Whether the amount imposed will be a substantial economic deterrent to the violation;
2. The circumstances leading to the violation;

3. The severity of the violation and the risk of harm to the public;
4. The economic benefits gained by the violator as a result of non-compliance; and/or,
5. The interest of the public.

160.70.3 In addition to any other sanction provided in this section, the Board shall have the power to sanction as follows any firm where one or more of its managing agents, officers, directors, owners, or managers have been found to have engaged in any conduct which would constitute a violation under the provisions of the Law or any of the rules or regulations of the Board:

1. Place on probation, fine, recover costs from, and/or reprimand;
2. Revoke, suspend, or refuse to issue, restore, or renew the certificate of authorization.

160.80 Disciplinary Action Procedures—Firms Holding a Certificate of Authorization

160.80 .1 Any person or entity, including the Board itself, may file a complaint alleging a violation of any provision of this Act or any of the rules or regulations of the Board against any firm holding a certificate of authorization.

160.80 .2 A complaint shall be in writing and state specifically the facts on which the complaint is based.

160.80 .3 All complaints shall be reviewed by the Board or an investigative committee designated by the Board. After review, the Board or the investigative committee shall determine or recommend, as appropriate, if charges are warranted.

160.80 .4 All charges, unless dismissed by the Board as unfounded, trivial, or unless settled informally, shall be heard by the Department. The time and place for the hearing shall be fixed by the Department, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such accused firm at least 30 days before the date fixed for the hearing. At any hearing, the accused firm and the accused firm's managing agent shall have the right to appear in person or by counsel, or both, to cross-examine witnesses in the accused firm's defense and to produce evidence and witnesses in the accused firm's defense. If the accused firm fails or refuses to appear at the hearing, the Department may proceed to hear and determine the validity of the charges in the accused firm's absence.

160.80 .5 If after such hearing a majority of the Board votes in favor of sustaining the charges, the Board shall reprimand, fine in an amount not to exceed the amount specified in accordance with the current applicable statute, R.I. Gen. Laws § 5-8-18 for each count, recover costs, refuse to issue, restore

or renew, place on probation for a period of time, and subject to such conditions as the Department may specify, suspend, revoke, or any combination thereof, the accused firm's certificate of authorization. All hearings shall be conducted pursuant to Department of Business Regulation Central Management Regulation 2 entitled *Rules of Procedure for Administrative Hearings*.

160.80 .6 A firm aggrieved by any action of the Department in levying a fine; recovering costs; reprimanding; placing on probation; denying; suspending, refusing to issue, restore, or renew; or revoking a firm certificate of authorization may appeal the Department's decision to the proper court pursuant to R.I. Gen. Laws § 42-35-15..

160.80 .7 Any financial sanction assessed pursuant to Section 160.70 of these regulations shall be assessed in a proceeding as provided in this section. Unless the amount of the penalty is paid within 30 Days after the order becomes final, the order shall constitute a judgment and shall be filed and execution issued thereon in the same manner as any other judgment of a court of record.

160.80 .8 An action to enforce an order under this section may be combined with an action for an injunction.

160.80 .9 The Department may, upon petition of a firm to reissue a firm certificate of authorization that has been revoked by the Department, provided that a majority of the Board votes in favor of such reissuance.

160.90 Grounds for Disciplinary Action—Firms Not Holding a Certificate of Authorization

160.90.1 Pursuant to R.I. Gen. Laws § 5-8-20(c) in addition to any other provisions of law, the Board shall have the power to fine pursuant to R.I. Gen. Laws § 5-84-5 and recover costs pursuant to R.I. Gen. Laws § 5-8-18 (a)(7) from any firm that does not hold a certificate of authorization and that is found guilty of:

1. Engaging in the practice or offer to practice of engineering or surveying in this jurisdiction without being authorized in accordance with the provisions of these rules and regulations;
2. Using or employing the words "engineer," "engineering," or any modification or derivative thereof in its name or form of business activity except as authorized in these rules and regulations;
3. Presenting or attempting to use an unauthorized certificate of authorization
4. Engaging in any fraud or deceit in obtaining or attempting to obtain a certificate of Authorization;
5. Impersonating any firm holding a certificate of authorization; and/or,

6. Using or attempting to use an expired, suspended, revoked, inactive, retired, or non-existent certificate of authorization.

160.90.2 A fine assessed under this section may not exceed the amount specified in accordance with the current applicable statutes, R.I. Gen. Laws § 5-8-18(a) and/or 5-84-5 for each offense.

160.90.3 Each day of continued violation may constitute a separate offense.

160.90.4 In determining the amount of fine to be assessed pursuant to this section, the Board may consider such factors as the following:

1. Whether the amount imposed will be a substantial economic deterrent to the violation;
2. The circumstances leading to the violation;
3. The severity of the violation and the risk of harm to the public;
4. The economic benefits gained by the violator as a result of non-compliance; and/or,
5. The interest of the public.

160.90.5 In addition to any other sanction provided in this section, the Board shall have the power to recommend fines and recovery of costs from any firm where one or more of its managing agents, officers, directors, owners, or managers have been found of any conduct which would constitute a violation under the provisions of this Act or any of the rules or regulations of the board.

160.100 Disciplinary Action Procedures—Firms Not Holding a Certificate of Authorization

160.100.1 Any person or entity, including the board itself, may file a complaint alleging a violation of any provision of this Act or any of the rules or regulations of the board against any firm that does not hold a certificate of authorization.

160.100.2 A complaint shall be in writing and state specifically the facts on which the complaint is based.

160.100.3 All complaints shall be reviewed by the board or an investigative committee designated by the board. After review, the board or the investigative committee shall determine or recommend, as appropriate, if charges are warranted.

160.100.4 All charges, unless dismissed by the board as unfounded, trivial, or unless settled informally, shall be heard by the board. The time and place for the hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such accused firm at least 30

days before the date fixed for the hearing. At any hearing, the accused firm shall have the right to appear in person or by counsel, or both, to cross-examine witnesses in its defense and to produce evidence and witnesses in its defense. If the accused firm fails or refuses to appear at the hearing, the board may proceed to hear and determine the validity of the charges in the accused firm's absence.

160.100.5 If after such hearing a majority of the Board votes in favor of sustaining the charges, the Board shall fine in an amount not to exceed the amount specified in accordance with the current applicable statute, R.I. Gen. Laws § 5-8-18 for each count and recover costs from the accused firm.

160.100.6 A firm aggrieved by any action of the Board in levying a fine or recovering costs may appeal the Board's decision to the proper court pursuant to R.I. Gen. Laws § 42-35-15.

160.100.7 Any financial sanction assessed pursuant to this section shall be assessed in a proceeding as provided in this section. Unless the amount of the penalty is paid within 30 days after the order becomes final, the order shall constitute a judgment and shall be filed and execution issued thereon in the same manner as any other judgment of a court of record.

160.100.8 An action to enforce an order under this section may be combined with an action for an injunction.

160.110 Criminal Offenses

Pursuant to R.I. Gen. Law § 5-8-20(c), any firm that shall commit a violation included in R.I. Gen. Law § 5-8-20(a) or (b) shall be guilty of a misdemeanor, and upon conviction by a court of competent jurisdiction shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000) for the first offense and a fine of not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) for each subsequent offense, or imprisonment for not more than one year, or both; and in the court's discretion and upon good cause shown reimburse the board for any and all fees, expenses, and costs incurred by the board in connection with the proceedings, including attorneys' fees, which amount shall be deposited as general revenues; and be subject to, in the board's discretion, public censure or reprimand..

170 MISCELLANEOUS

170.10 Public Works

Any jurisdiction, county, or local government agencies or authorities, or officials or employees thereof, shall not engage in the practice of engineering or surveying involving either public or private property without the project being under the responsible charge of a professional engineer for engineering projects or a professional surveyor for surveying projects, as provided for the practice of the respective professions by these regulations.

170.10.1 Engineered Products and Systems

Licensed engineers shall be in responsible charge of all engineering design of buildings, structures, products, machines, processes, and systems that can affect the health, safety, and welfare of the public.

170.11 Public Information

Public records may be made by written request to the Board pursuant to R.I. Gen. Laws § 38-2-1 et seq. and Department of Business Regulation Central Management Regulation 1 entitled *Access to Public Records*.

170.12 Petitions for Rule Making, Amendment or Repeal

170.12.1 Any interested person may petition the Board requesting the promulgation, amendment, or repeal of any rule.

170.12.2 Where the petition requests the promulgation of rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form if any. The petition must include all reasons for the requested amendment or repeal of the rule.

170.12.3 All petitions shall be considered by the Board and the Board may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

170.13 Declaratory Rulings- Pursuant to R.I. Gen. Laws § 42-35-8 and Department of Business Regulation Central Management Regulation 3 entitled *Declaratory Rulings and Petitions* the Board will accept requests from any person or Entity for advisory opinions or declaratory rulings on the Practice of Engineering.

170.15 APPLICATION FOR TEMPORARY PERMIT

It is the policy of the Rhode Island Board of Registration for Professional Engineers to not issue a temporary permit to practice or offer to practice engineering in the State of Rhode Island.

170.30 Invalid Provisions

If any of the provisions of these rules and regulations or if any rule, regulation, or order of the Board or if the application of such provision to any person or circumstance shall be held invalid, the remainder of these rules and regulations and the application of such provision of these rules

and regulations or such rule, regulation, or order to persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby.