



The North Carolina Bulletin

The Newsletter of the North Carolina Board of Examiners for Engineers and Surveyors

October 2011 Fall Issue



Inside this Issue

Board, Committees and Staff Directory.....	2	Board Meetings	9
Statute Changes to NCGS 89C Now Law.....	3	Renewals for 2012.....	10
Board Rules Revisions.....	4	April 2011 Exam Statistics	10
Mini-Brooks Qualifications Based Selection	5	2011-2012 Examination Dates.....	10
NCEES honors Henry Liles Jr. for Service.....	9	FE, FS Exams Transition to Computer-based Testing	11
In Memory of William C. Owen	9	Disciplinary Actions.....	12



The North Carolina Bulletin

Published to provide news and information regarding statutory and regulatory changes and to promote a better understanding of the practices of engineering and land surveying in the State of North Carolina.

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NCBELS proposed a number of revisions to the Engineering and Surveying Act this legislative session, which were approved and have now become law. The changes fall into two categories: housekeeping and changes needed to bring the NC Engineering and Surveying Act more in line with the NCEES National Model Law. The changes include the following:

- 1. Change authorizations from the Board to the Executive Director for routine duties from unanimous to majority approval.** Currently the statute reads that several votes of the Board (approving the budget, for example) must be approved by a 9 – 0 vote and the change would allow that to be a majority vote of the Board. (§ 89C-11. Secretary; duties and liabilities; expenditures.)
- 2. Eliminate temporary permit provisions.** Temporary permits allow an engineer with an engineering license from another state (not the corporate entity) to work on one project for 90 days. The intent of the permit was to allow the engineer to work while an in-state license was processed. Today that full license is processed in five days and costs the same as a temporary permit, eliminating the need for this permit. (§ 89C-25. Limitations on application of Chapter.)
- 3. Consider allowing foreigners to seek licensure by comity (Engineers only) and revise language on comity for engineers and surveyors to resemble NCEES Model Law.** The current statute only allows experience required for licensure (4 years) to be gained while working for either a US licensed PE or a US-owned company. This change will allow the Board to consider and evaluate engineering experience gained for a foreign entity. (§ 89C-13. General requirements for licensure.)
- 4. Add disciplinary actions of refuse to reinstate and to require education which aligns with NCEES Model Law.** Currently, the statute allows the Board to issue the following penalties: civil penalty, suspension, revocation or refusal to renew. The change allows the Board to impose education as an option. (§ 89C-21. Disciplinary action - Reexamination, revocation, suspension, reprimand, or civil penalty.)
- 5. Add disciplinary actions of refuse to reinstate and to require education – which aligns with NCEES Model Law – with settlement conference.** Currently, the statute allows the Board to issue the following penalties for a settlement conference: civil penalty, suspension, or revocation. The change allows the Board to impose education or refusal to renew as an option. (§ 89C 22. Disciplinary action – Charges; procedure.)
- 6. Take Fundamentals exam as “senior” is extended to all engineering or related science curriculum students (not just ABET Engineering Curriculum).** The current statute requires a student with a 4-year engineering technology degree to have 4 years’ experience to take the first engineering exam and 8 years’ experience before taking the second exam. This change would allow the technology student to take the exam with the BS in Engineering students while still in school but would still require 8 years’ experience prior to taking the second exam. (§ 89C-13. General requirements for licensure.)
- 7. Provide qualifications for “retired” status.** The statute currently allows a retired engineer or surveyor to request the Board for the honorific “retired” status upon retiring and this change further defines that status by adding a requirement that the Board can consider the licensee’s disciplinary record. (§ 89C-3. Definitions.)
- 8. Revisions to education and experience requirements (engineering only).** Adds a waiver for the Fundamentals of engineering for those that have a PhD in Engineering. Also cleans up the language note in item # 6. (§ 89C 13. General requirements for licensure.)
- 9. Eliminate requirement to print and distribute a Roster of licensees.** The Board currently distributes the Roster electronically for free and also all the information in the Roster is contained on the Board’s website. (§ 89C-12. Records and reports of Board; evidence.)

Board Rules Revisions

By David S. Tuttle, Board Counsel

The proposed Board Rule revisions that were described in the article in the Spring Newsletter are now fully adopted and published. The link on our website will direct you to the latest version of the Board Rules with the revisions that were effective on August 1 and September 1, 2011.

The rule-making process for this round began in the fall of 2010. It included publishing the proposed changes in the April 15, 2011 North Carolina Register, allowing for a 60 day written comment period that ended on June 14, 2011 and conducting a public hearing for comments at the May 19, 2011 Board meeting. Further, the Rules were reviewed and approved by the Rules Review Commission.

The proposed changes fell into two categories: adoption of new rules and revisions (amendments) to existing rules. These are summarized as follows (each rule is prefaced by 21-56 for Title 21, Chapter 56 of the NC Administrative Code):

Adopt:

.0506 and .0607 to provide for waiver of renewal fees and continuing education for licensees serving on active duty in the Armed Forces of the U.S. as required by G.S. 93B-15.

Amend:

.0401 to align with retention requirements for Board records;
.0501 – An associate degree or high school diploma with additional experience will no longer be deemed equivalent to an engineering or related science curriculum of four years or more and will not meet the education requirements for engineering licensure. Effective July 1, 2016, those persons who have already been admitted to the Principles and Practice of Engineering examination based on an associate degree, can take the exam, continuing until required to re-apply. An associate degree becomes no longer available as a basis for taking the exam. The 20 year waiver of the Fundamentals exam remains in effect.

.0505 and .0606 to make business and residence addresses be the physical location to conform to “place” in G.S. 89C-12 (a P.O. Box does not meet the physical location requirement); require reporting criminal conviction or disciplinary action to the Board within 30 days of conviction, and provide rules for “retired” status;

.0701 to add successor licensee requirements to the rules on “responsible charge,” specifically .0701(c)(4):

(4) In circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a design plan signed and sealed by an out-of-jurisdiction licensee (not a site adaptation of a standard design plan under 21 NCAC 56 .1106), a successor licensee may take responsible charge by performing all professional services to include developing a complete design file with work or design criteria, calculations, code research, and any necessary and appropriate changes to the work;

.0804 to make the firm’s address be the physical location to conform to “place” in G.S. 89C-12 (P.O. Box continues to be allowed for mailing address), require reporting disciplinary action to the Board within 30 days, and to provide for waiver of renewal fees for a business entity that ceases business while licensee is serving on active duty in the Armed Forces of the U.S.;

.1103 to clarify individual license number to be used for exempt sole proprietorship;

.1301 and .1302 to allow for Assistant Executive Director to serve in lieu of Executive Director in Review Committees and Settlement Conferences;

Revise Standards of Practice for Land Surveying in Section .1600:

.1602 to update that coordinates of geodetic monuments are on file in the North Carolina Geodetic Survey Section of the Division of Land Resources of the Department of the Environment and Natural Resources;

.1605 and .1606 to revise vertical accuracy standards and certification statements;

.1607 to correct omitted item, “Units;”

.1608 to add a GIS accuracy classification and a certification statement;

.1703 and .1705 to eliminate exam for webinar course (if attendance is documented);

.1707 to waive continuing education for licensees serving on active duty in the Armed Forces of the U.S. as required by G.S. 93B-15;

.1713 to eliminate CPC sponsor quarterly reporting.

The Board, with your input, continues to revise the Board Rules to adapt to current practice and issues. If you have any questions when you refer to the actual language of the revised Rules, please contact us.

What is Mini-Brooks? Is it viewed as a regulation that gets in the way of bidding professional services? Or can it be seen as the light leading the way to quality professional services on government projects? As we explore the answer we will look at the following:

- History of Qualifications Based Selection
- Relating Regulations to Procuring Professional Services
 - > NC Statute
 - > NC Administrative Code
- How Engineering/Land Surveying Firms may respond
- Real World Scenarios

History of Qualifications Based Selection (QBS)

The Federal legislation is codified as the Brooks Act in 40 U.S. Code 1101 et seq., which was formerly section 541. It was introduced by Congressman Jack Brooks of Texas in 1972 to codify selection of architects and engineers (and surveyors) based on qualifications rather than solely on lowest price. President Nixon signed it into law on October 27, 1972. The Brooks Act applies to Federal Government projects. There are no exemptions and agencies will sometimes specify that the provisions apply to the sub-contracts obtained by the prime contractor.

Mini-Brooks Acts, as they came to be called, were the efforts of the states to follow the Brooks Act for State and local government projects. Forty-seven states have implemented some sort of QBS laws. The North Carolina "Mini-Brooks Act" G.S. 143-64.31 et seq. became law in 1987 for the procurement of architectural, engineering and land surveying services based on qualifications. Construction management at risk services, though not a licensed professional service, was added in 2001. The Mini-Brooks Act applies to the State and its public subdivisions and Local Governmental Units.

Relating Regulations to Procuring Professional Services

What are the laws, rules, opinions and interpretations that apply?

When is it architectural, engineering, land surveying or construction management at risk services?

Where can you seek advice?

How can you assure that you comply?

In answering these questions about Qualifications Based Selection, the following Law, Rules and Opinions are helpful resources:

- Federal Brooks Act U.S. Code 541 et seq.
- State Statute G.S. 143-64.31 et seq.
- Engineers and Land Surveyors Board Rule NCAC 21-56.0701(f)(3)
- Architects Board Rule NCAC 21-02.0209(9)
- Eng/LS Board Newsletter Spring 2001 Q&A
- Attorney General Opinion June 19, 2001

State Statute G.S. 143-64.31 et seq. NCGS 143-64.31

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to **announce** all requirements for architectural, engineering, surveying and construction management at risk services,

to **select firms qualified** to provide such services on the basis of demonstrated competence and qualification for the type of professional services required **without regard to fee** other than unit price information at this stage,

and thereafter to **negotiate a contract** for those services at a fair and reasonable fee with the best qualified firm.

If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm.

Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

(a1) A resident firm providing architectural, engineering, surveying, or construction management at risk services shall be granted a **preference over a nonresident firm**, in the same manner,

continued on page 6

Mini-Brooks Qualifications Based Selection

continued from page 5

on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina. For purposes of this section, a resident firm is a firm that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

(b) Public entities that contract with a construction manager at risk under this section shall report to the Secretary of Administration the following information on all projects where a construction manager at risk is utilized:

- (1) A detailed explanation of the reason why the particular construction manager at risk was selected.
- (2) The terms of the contract with the construction manager at risk.
- (3) A list of all other firms considered but not selected as the construction manager at risk and the amount of their proposed fees for services.
- (4) A report on the form of bidding utilized by the construction manager at risk on the project.

The Secretary of Administration shall adopt rules to implement the provisions of this subsection including the format and frequency of reporting.

I will comment on the above section that it is important to note the three major requirements that are bolded and underlined: announce the project by advertising, select firms qualified to provide such services without regard to fee, and negotiate a contract.

NCGS 143-64.32

Written exemption of particular contracts.

Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of:

- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or
- (b) Other particular projects exempted in the sole discretion of the Department of Transportation or the unit of local government, stating the reasons therefore and the circumstances attendant thereto.

Commenting on this section, as noted before, the Federal Brooks Act has no exemptions. The exemptions in the Mini-Brooks Act are only available to local (City and County) government and DOT, but not to other state agencies. The exemption must be in writing by the authority who has the power to award the contract, such as the City Council, County Board of Commissioners, unless such authority is delegated to a manager. There is no automatic exemption for projects with an estimated professional fee of less than \$30,000. The exemption must be specifically stated for the project. The reasons given to support an exemption under paragraph (b) are not to be questioned by the licensee or our Board, but a subject to the electorates of their officials.

NCGS 143-64.34

Exemption of certain projects.

State capital improvement projects under the jurisdiction of the State Building Commission, capital improvement projects of The University of North Carolina, and community college capital improvement projects, where the estimated expenditure of public money is less than five hundred thousand dollars (\$500,000), are exempt from the provisions of this Article.

Engineers and Land Surveyors Board Rule

NCAC 21-56.0701(f)(3)

Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.).

Architects Board Rule NCAC 21-02.0209(9)

Fee bidding on Public Projects. An architect shall not knowingly cooperate in a violation of any provisions of G.S. 143-64.31.

Board Newsletter Spring 2001

Questions & Answers

The Engineering and Surveying newsletter provided answers posed in a Consulting Engineers Council of North Carolina meeting in January 2001. See the Board's website at www.ncbels.org under FAQ for all questions and answers. The following are Selected Questions & Answers:

Is a two envelope system acceptable under the provisions of the Mini-Brooks Act?

No. A project cost may not be provided until a firm has been selected based upon a qualification based process.

What about the delivery of unit prices for the project?

The delivery of unit prices as a response to a request for proposal identifies relative information with respect to general fees and is not specific to tasks related to the project. The submission of any information, which can be easily correlated to a fixed price or a bid, is prohibited unless the project has been exempted.

What is considered a fee bid?

The submission of any information that would allow the public entity to determine a total project fee would be considered a "fee bid."

Who must issue the written exemption?

The exemption can only be issued by the entity that is authorized to award the contract.

Are special inspections of an engineering nature subject to the Act?

Yes, since the services are engineering services, the Mini-Brooks Act would apply.

NC Attorney General Advisory Opinion 1/19/01

The Attorney General's Advisory Opinion determined that the selection of sub-consultants by the prime consultant, where the sub-contract is not with the government entity, is not subject to the Mini-Brooks Act.

Where Can You Turn for Advice?

This is one of the few statutes that provides for a source of advice when trying to comply with the statute.

NCGS 143-64.33

On architectural, engineering, or surveying contracts, the Department of Transportation or the Department of Administration may provide, upon request by a county, city, town or other subdivision of the State, advice in the process of selecting consultants or in negotiating consultant contracts with

architects, engineers, or surveyors or any or all.

The Department of Administration in the statute is a reference to the State Construction Office. Greg Driver, PE, is the Director. Other possible sources of advice for agencies and local governments are the: Purchasing Manager, AG/City/County Attorney, Institute of Government in the School of Government at UNC-Chapel Hill, and the Board of Examiners for Engineers and Surveyors with me as Board Counsel.

Example of a Company's Response to a Request for Proposal in compliance with the Mini-Brooks Act

Some number of years ago, the Board received a company's proposed response to an RFP and was graciously extended permission to use it as the Board saw fit to benefit other companies in their responses. This is a modified version of that response:

(Company) will not knowingly contribute in any manner to the violation of the letter or intent of NC General Statute 143-64.31, et seq.

By submitting this price proposal, (Company) has the full knowledge and belief that, and by accepting this proposal for consideration, you, as the unit of government, are affirming that:

This proposal is not for a contract to be awarded by the State of North Carolina or any of its agencies, by a public subdivision or by a unit of local government for architectural, engineering, land surveying or construction management at risk services; or

You have announced the requirements for professional services and solicited this proposal on the basis of having selected (Company) by qualifications based selection to accomplish this work without regard to fee other than possibly unit price information, and you are not negotiating with, or have terminated negotiations with, any other firm or company for the accomplishment of this work while this proposal is being considered for possible acceptance by you; or

continued on page 8

Mini-Brooks Qualifications Based Selection

continued from page 7

You, as the unit of local government or NCDOT, have under G.S. 143-64.32 in writing exempted the particular project from the provisions of G.S. 143-64.31, et seq. based upon the total estimated professional fee being less than \$30,000 or in your sole discretion as the unit of government stating the reasons for such exemption and the circumstances attendant thereto, and have furthermore provided (Company) with a copy of such statement of exemption signed or adopted by the contracting authority; or

The project is a State capital improvement project under the jurisdiction of the State Building Commission, a capital improvement project of The University of North Carolina, or a community college capital improvement project, where the estimated expenditure of public money is less than five hundred thousand dollars (\$500,000), and therefore exempt from the provisions of G.S. 143-64.31.

Otherwise, this proposal is null and void.

Real World Scenarios

At a minimum it is the duty of the Professional Engineer or Professional Land Surveyor to inquire about Mini-Brooks compliance when requested to propose on a project. Here are some scenarios to help apply what has been discussed:

If a Request for Proposal (RFP) is received from a State agency requesting a price for surveying, the PLS must ask if the request is following the requirements of the Mini-Brooks Act. If the answer is "What is that?" you may have a problem. You can refer the agency to their legal counsel or other sources for information. Please remember that unless it is DOT, a state agency cannot exempt the project from Mini-Brooks.

If you receive a call from the utility department to provide a price for providing engineering services for a project, you once again need to ask the question and if the response is

that the local government has exempted the project you can ask for that in writing or maybe ask if it will be issued as an addendum to the RFP.

What if you are called to be one of three to submit a proposal for doing a project and only qualifications are requested? The fact that three are asked to submit prices does not satisfy Mini-Brooks, since the project must be publicly "announced."

In response to an RFP can you submit man-hour rates for the project? The answer is yes if the other requirements of announcing the project and asking for qualifications are met. The statute allows the submittal of unit prices, but only if the ultimate cost cannot be calculated. So, as long as the project is not to be contracted on a man-hour basis, it is proper.

Can you submit a price proposal as requested in an RFP by the county when all of the money is private funding? The answer is no. It is not where the money comes from, but the fact that a unit of government is the contracting entity.

What about an RFP by a downtown redevelopment corporation? This can be tricky, because it turns on whether the corporation is truly not a unit of government in its setup and control.

An Architect requests you to provide a price for the engineering or surveying on a county project. Can you provide the price? The key is whether your contract will be with the County or the Architect. The Architect is not required to follow the Mini-Brooks QBS selection in procuring his or her own subcontracts, but be careful for you may find that your contract ends up being with the County, who then pays you.

It is hoped that this provides some insight into how compliance with Mini-Brooks can be obtained. If you have any questions, please contact the author or any of the recommended resources in this article.

NCEES honors North Carolina engineer Henry Liles Jr. for service

Henry Liles Jr., P.E., of Raleigh, North Carolina, has been awarded the NCEES Distinguished Service Award for his dedicated service to the engineering and surveying professions. NCEES recognized the 2011 award winners at its annual meeting, held August 24–27 in Providence, Rhode Island.



Joe Timms of WV, President of NCEES (left), presents the Distinguished Service Award to Henry Liles Jr., P.E.

A member of the North Carolina Board of Examiners for Engineers and Surveyors from 2000 to 2010, Liles served as Board Chair and Vice Chair during his tenure. He is now an Emeritus Member of the Board.

Liles has been an active member of NCEES over the past decade. His contributions to the organization's committees and task forces include serving five years on the Committee on Uniform Procedures and Legislative Guidelines, including two as chair. He also has assisted with efforts to strengthen the education requirements for engineering licensure: Liles has served as chair of the Alternate Licensure Pathway Task Force, a member of the Bachelor's Plus 30 Task Force, and consultant to the Engineering Education Task Force.

In 2000, Liles was selected Engineer of the Year by Professional Engineers of North Carolina. He has served as president of the American Society of Civil Engineers North Carolina section and Professional Engineers of North Carolina as well as trustee of the Engineers Foundation at North Carolina State University. He is currently chair of the Engineers Political Action Committee of North Carolina.

The NC Board of Examiners' Board meetings are open to the public. Meetings are conducted at the Board office at 4601 Six Forks Road, Suite 310, Raleigh, NC 27609 (unless otherwise noted). Persons wishing to be placed on the agenda should submit a written request to the Board address as follows: *ATTN: Andrew Ritter, Executive Director, at least two weeks in advance of the next regularly scheduled Board meeting. These requests should contain information concerning the nature of the business that you would like to discuss with the Board.*



In Memory of
William C. Owen
April 10, 1948 – June 6, 2011

Former Board member William C. (Bill) Owen passed away at his home in Southern Shores on June 6, 2011. Born in Richmond, Virginia, Mr. Owen attended Virginia Polytechnic Institute prior to joining the US Navy. He was an Honor Graduate of the USNTC Great Lakes and served as an Instrumentman aboard the USS *Proteus*.

Mr. Owen, licensed as a PLS in January 1989, was President of Seaboard Surveying and Planning in Nags Head. Two of his noteworthy projects were the move of the Cape Hatteras Lighthouse and setting up the Fountain Powerboats world record courses.

Bill Owen was President of the NC Society of Surveyors in 1997 and was named Surveyor of the Year in 1998. He was appointed to the NC Board of Examiners in April 1999 and served through December 2003. He held the positions of Board Vice Chair in 2001 and Board Chair in 2002.

Mr. Owen was also deeply involved in the Boy Scouts of America, most recently serving as Scoutmaster of Troop 117 in Kitty Hawk as well as Scoutmaster for the 2010 Jamboree Troop 1735.

Bill Owen is survived by his wife, Janet M. Owen, and his 16-year-old son, Zack Owen, of Southern Shores, as well as his parents, William L. Owen and Christine Owen, and his brother, David L. Owen, all of Richmond, Virginia.

A Celebration of Life was held on June 11 at Kitty Hawk United Methodist Church.

Renewals for 2012

License renewals for 2012 begin on December 1. Licensees are encouraged to renew online as it is considerably faster than renewing by mail. Simply login to the **Licensees Only** section at the Board's website and enter your license number and PIN. If you do not have your PIN, you may follow the instructions in the **Licensees Only** section to receive it via e-mail. Also, if you do not know how many PDHs you reported the previous year, you will find instructions in the **Licensees Only** section that will allow you to review your previously reported PDHs.

Exams & Renewals

April 2011 Exam Statistics

The results from the April 2011 administration of the licensure exams have been received and processed by the Board. The results for the examinations are as follows:

Fundamentals of Engineering (FE)	71.8% pass rate
Principles & Practice of Engineering (PE)	65.9% pass rate
Fundamentals of Land Surveying (FLS)	63.9% pass rate
Principles & Practice of Land Surveying (PLS)	

	April 2011	July 2011
Part A:	48.5% pass rate	-----
Part B:	42.9% pass rate	100% pass rate
Part C:	60.5% pass rate	66.7% pass rate

2011-2012 Examination Dates

National examinations are to be conducted on the following dates:

October 28 & 29, 2011	Deadline: August 1, 2011
April 13 & 14, 2012	Deadline: January 3, 2012

The Board administers national licensure examinations as offered by the National Council of Examiners for Engineers and Surveying (NCEES). For additional information about the exams or application process, please visit the Board's website at www.ncbels.org or contact the Board office at (919) 791-2000.

Examination dates for Out-of-State Surveying Applicants

The Board of Examiners has added two additional exam dates for **Out-of-State Surveying Applicants ONLY**. The usual April and October examination periods also apply.

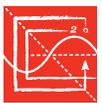
January 23, 2012	Application Deadline: November 2, 2011
July 23, 2012	Application Deadline: May 1, 2012

FE, FS Exams Begin Transition to Computer-based Testing

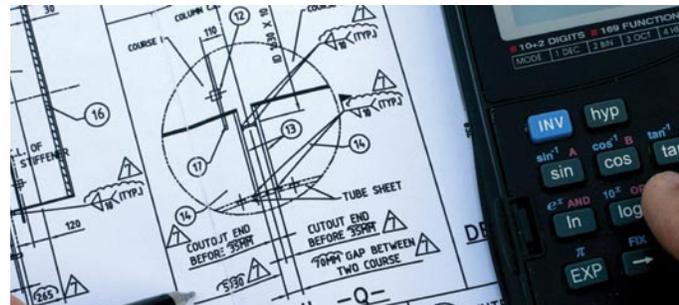
At the August 2010 NCEES annual meeting, the state licensing boards that make up NCEES voted to begin converting the Fundamentals of Engineering (FE) and Fundamentals of Surveying (FS) exams to a computer-based format. The decision followed a prolonged study by a task force convened to research the issue. This transition will allow greater scheduling flexibility for examinees, more uniformity in testing conditions, and enhanced security for exam content.

The exams will be delivered through Pearson VUE's owned-and-operated network of Pearson Professional Centers and other select locations as determined by NCEES. Pearson VUE is a global leader in computer-based testing, with the world's most comprehensive and secure network of testing centers across 165 countries. It provides testing services for academic, government, and professional testing programs, including licensure exams for the National Council of State Boards of Nursing and the National Association of Boards of Pharmacy, as well as the GMAT. Pearson VUE is part of Pearson plc, the largest commercial testing company and education publisher in the world.

The NCEES Computer-Based Testing Task Force is developing a comprehensive plan and timetable for the conversion. Currently, the plan is for the FE and FS exams to be offered in a paper-and-pencil format for the last time in October 2013. The computer-based exams will then begin being offered in early 2014. The PE and PS exams, which engineering and surveying candidates are required to take after completing work experience requirements, will continue to be paper-and-pencil exams for the foreseeable future.



NCEES
*advancing licensure for
engineers and surveyors*



Timeline for implementation of computer-based administration of FE and FS exams

June to August 2011

- The FE and FS content reviews will begin; this is the process by which NCEES develops the exam specifications.
- NCEES will review test center locations.

August 2011 to August 2012

- The FE and FS content reviews will be completed.
- The exam item banks will be assessed, and item-writing sessions will be held.
- State licensure boards will review legislative rules and statutes for compliance with computer-based testing.
- New computer-based testing policies will be presented for adoption at the 2012 NCEES annual meeting.

August 2012 to August 2013

- Pools of questions will be developed for the initial administration of the exams in this format.

October 2013

- Paper-and-pencil FE and FS exams will be offered for the last time.

January 2014

- The FE and FS exams will be administered electronically for the first time.

Disciplinary Actions 2011-2 (Fall)

The following summaries represent disciplinary actions taken by the Board. Penalties vary depending upon the specific circumstances of each case. Space limitations preclude full reporting of all circumstances.

Questions or requests for information concerning specific cases should be directed to David S. Tuttle, Board Counsel, at (919) 791-2000, extension 111 or via email to dstuttle@ncbels.org.

CASE NO. V2009-004

Donald S. Hilhorst, PLS [L-3785]
Nashville, NC

VIOLATION: Performed an inaccurate or substandard survey, failing to protect the public [.0701(b)] and failed to report the results of a survey in a clear and factual manner [.1602(f)].

BOARD ACTION: Reprimand and \$500.00 civil penalty.

CASE NO. V2009-025
Thomas A. Bellace, PE [25147]
Houston, TX

VIOLATION: Voluntary relinquished his Professional Engineer's license in another jurisdiction in violation of G.S. 89C and the Board Rules [.0701(h)].

BOARD ACTION: Refuse to renew Engineering Certificate of Licensure.

CASE NO. V2009-035

Richard C. Current, PLS [L-756]
Wilkesboro, NC

VIOLATION:
Survey 1: failed to report and show lappage [.1602(a), (f)] and failed to report the results of a survey in a clear and factual manner [.1602(f)] as to basis of lappage shown.
Survey 2: failed to report the results of a survey in a clear and factual manner [.1602(f)] as to purpose of survey, what tracts represent and failure to label line types.

BOARD ACTION: Reprimand.

CASE NO. V2009-053

Charles O. Eliason, PLS [L-3599]
Siler City, NC

VIOLATION: Failed to report and show a lappage [.1602(a), (f)].

BOARD ACTION: Reprimand.

CASE NO. V2009-080

S. Neal Broome, PLS [L-2204]
Charlotte, NC

VIOLATION: Produced a substandard survey that perpetuates a dispute, failing to protect the public [.0701(b)]; failed to be clear and factual by not acknowledging, on the map, the existence of quitclaim deeds, and not making clear that area remained in dispute [.1602(f)]; and failed to comply with the Standards of Practice for Land Surveying in NC [.1600] to include not providing a legend to denote line designations and symbols [.1604(d)(11)] and an inadequate scale by not listing in words and figures and units for bar graph [.1604(d)(11)].

BOARD ACTION: Reprimand.

CASE NO. V2009-085

Thomas Scaramastra, PLS [L-4421]
Greensboro, NC

VIOLATION: Affixed his seal to work not done under his direct supervisory control or responsible charge [.0701(c)(3)]; issued an inaccurate survey creating an encroachment on the adjoining property [.1602(a),(f)]; and failed to make adequate investigation [.1602(a)].

BOARD ACTION: Reprimand.

CASE NO. V2009-089

Kenneth T. Mills, PLS [L-2411]
Asheville, NC

VIOLATION: Failed to report the results of a survey in a clear and factual manner as to deed reference and well ownership [.1602(f)]; failed to protect the public by producing a survey that does not conform to the conditions of the will to convey the dwelling place, creating an encroachment onto the adjoining property [.0701(b), .1602(a)(f)]; and failed to describe revision [.1103(a)(7)].

BOARD ACTION: Reprimand.

CASE NO. V2010-002

DiamondWater, LLP [F-1133]
Garner, NC

VIOLATION: Failed to have a resident licensed professional in responsible charge in each office [.0901]; represented itself as being capable of providing surveying services [.0701(b)]; made exaggerated, misleading, deceptive or false statements of qualifications, as to land surveying [.0702] and falsified or permitted misrepresentation of professional qualifications as to employee statuses [.0701(f)(4)].

BOARD ACTION: Suspend the Firm Certificate of Licensure until such time as proof is provided that the resident professional requirements have been met and the Certificate of Licensure will be revoked if the firm is not in compliance within 60 days of the Decision and Order. Having met the requirement of fulfilling the resident professional requirements there was no active suspension of the firm license.

CASE NO. V2010-005

M. Ginger Scoggins, PE [17352]
Raleigh, NC

VIOLATION: Had her license suspended by another jurisdiction in violation of G.S. 89C and the Board Rules [.0701(h)].

BOARD ACTION: Reprimand, \$2,000.00 civil penalty and required to furnish proof, within six months of the date of the Decision and Order, of passing Ethics I and II offered by the Murdough Center for Engineering Professionalism of Texas Tech University.

CASE NO. V2010-039

Jerry A. King, PLS [L-3373]
Asheboro, NC

VIOLATION: Issued inaccurate surveys creating an encroachment on the adjoining property [.1602(a),(f)]; failed to clearly indicate and note source of lines not actually surveyed [.1604(b)]; and failed to identify all reference sources [.1602(f)].

BOARD ACTION: Reprimand, \$2,000.00 civil penalty and show proof of completing section on boundary surveying, as determined by the Board, at the February 2012 NC Society of Surveyors Institute.

CASE NO. V2010-040

Philip M. Henley, PLS [L-1494]
Asheboro, NC

VIOLATION: Performed an inaccurate or substandard survey, failing to protect the public [.0701(b)]; failed to report the results of a survey in a clear and factual manner as to monumenting western boundary [.1602(f)]; and failed to make adequate investigation, creating a gap [.1602(a)].

BOARD ACTION: Reprimand and \$1,000.00 civil penalty.

CASE NO. V2010-043

W. David Ball, PLS [L-3854]
Hendersonville, NC

VIOLATION: Performed an inaccurate or substandard survey, failing to protect the public [.0701(b)].

BOARD ACTION: Reprimand.

CASE NO. V2010-047

Paul H. Durand, Jr., PE [19620-Archived]
Northridge, CA

VIOLATION: Practiced or offered to practice engineering in NC without a license as required by G.S. 89C-23.

BOARD ACTION: Issued letter to cause respondent to cease and desist practicing or offering to practice engineering in NC to include but not limited to structural design, calculations, review of structural designs and calculations, special inspections of engineering projects, or any other services included in the definition of engineering in G.S. 89C-3(6) until licensed with the NC Board.

CASE NO. V2010-048

Robert C. Moore III, PLS [L-4184]
Kitty Hawk, NC

VIOLATION: Performed inaccurate or substandard surveys, failing to protect the public [.0701(b)]; failed to report the results of surveys in a clear and factual manner as to mean high water [.1602(f)]; failed to provide proper legend to include line designations [.1604(d)(11)]; and failed to be completely objective and truthful in professional statements as to whether the signatures were those of the licensee [.0701(d)(1)].

BOARD ACTION: Suspended Land Surveying Certificate of Licensure for six months.

CASE NO. V2010-049

Michael F. Blaney, PLS [L-3741]
Tannersville, NY

VIOLATION: Failed to show an easement on surveys [.1602(b), (f)] and failed to notify Board of address change within 30 days [.0606(a)].

BOARD ACTION: Reprimand and \$1,000.00 civil penalty.

CASE NO. V2010-053

William F. Rolader, PLS [L-2846]
Mountain City, GA

VIOLATION:

Map 1: issued an inaccurate survey creating a gap and an encroachment on the adjoining property [.1602(a),(f)]; failed to report the results of a survey in a clear and factual manner [.1602(f)]; and failed to sign and seal a survey not marked as preliminary [.1103].

Map 2: failed to monument all corners [.1602(d)] and failed to describe monuments as set or found [.1602(f)].

Map 3: failed to report the results of a survey in a clear and factual manner [.1602(f)].

Map 4: failed to report the results of a survey in a clear and factual manner [.1602(f)]; failed to monument corners [.1602(d)]; and failed to describe monuments as set or found [.1602(f)].

Map 5: failed to report the results of a survey in a clear and factual manner [.1602(f)] and failed to tie to a geodetic monument within 2000 feet [.1602(g)].

Maps 6, 7, 8 and 9: failed to provide adequate tie [.1602(g), .1604(d)(9)].

Map 10: failed to show names of adjacent land owners, lot designation, or legal reference [.1604(d)(7)] and failed to provide adequate tie [.1602(g), .1604(d)(9)].

BOARD ACTION: Reprimand and \$2,000.00 civil penalty.

CASE NO. V2010-057

Frederick W. Jones, PLS [L-4503]
Burgaw, NC

VIOLATION: Performed an inaccurate or substandard survey, failing to protect the public [.0701(b)] and failed to make adequate investigation [.1602(a)].

BOARD ACTION: Reprimand, \$1,000.00 civil penalty, require proof of completing section on boundary surveying, as determined by the Board, at the February 2012 NC Society of Surveyors Institute and furnish proof of passing,

within three months of the date of the Decision and Order the Professional, Ethics Course offered by New Mexico State University.

CASE NO. V2010-069

James R. Littleton II, PE [22533]
Mt. Airy, NC

VIOLATION: Affixed seal to inadequate design documents, failing to protect the public [.0701(b)]; performed services outside area of competence [.0701(c)(3)]; and affixed seal to work not done under direct supervisory control or responsible charge [.0701(c)(3)].

BOARD ACTION: Reprimand, \$5,000.00 civil penalty and restricted his practice from building structural engineering design until such time as he satisfies the Board by passing the NCEES Structural Exam that he is competent to do so.

CASE NO. V2010-079

John D. Powers, Jr., PLS [L-3719]
Lumberton, NC

VIOLATION: Practiced or offered to practice land surveying while his license was suspended in violation of G.S. 89C.

BOARD ACTION: Suspended his Land Surveying Certificate of Licensure for 12 months beginning on August 1, 2011.

CASE NO. V2010-080

Dennis S. Nelson, PE [13153]
Eau Claire, WI

VIOLATION: Violated the conditions of the Decision and Order by not paying the \$1,000.00 civil penalty.

BOARD ACTION: Suspended his Engineering Certificate of Licensure beginning on May 18, 2011 and continuing until such time as he pays the \$1,000.00 civil penalty.

CASE NO. V2010-083

Larry T. Turlington, PLS [L-2451]
Franklin, NC

VIOLATION: Failed to conduct his practice in order to protect the public health, safety and welfare [.0701(b)]; failed to report the results of a survey as a map or report of survey [.1602(f)]; failed to report the results of a survey in a clear and factual manner [.1602(f)]; and failed to date revision [.1103(a)(7)].

BOARD ACTION: Reprimand.

CASE NO. V2010-086

Francis Jefferson (F. J.) Keith, PE [21934]
Goochland, VA

VIOLATION: Had his Professional Engineer's license revoked by another jurisdiction in violation of G.S. 89C and the Board Rules [.0701(h)].

BOARD ACTION: Revocation.

CASE NO. V2010-088

David L. Stout, Sr., PE [13272]
Sanford, NC

VIOLATION: Violated the conditions of the Decision and Order dated December 10, 2010 by not paying the \$1,000.00 civil penalty.

BOARD ACTION: Suspended Engineering Certificate of Licensure continuing until such time as the \$1,000.00 civil penalty of is paid.

CASE NO. V2010-094

Orbis, Inc., unlicensed
Charlotte, NC

VIOLATION: Practiced or offered to practice land surveying in NC without a license in violation of G.S. 89C-24 and 55B.

BOARD ACTION: Issued a letter to cause respondent to cease and desist practicing or offering to practice land surveying in NC, to include but not limited to photogrammetry, imagery processing, interpretation orthos, LIDAR acquisition, airborne GPS, and GIS manipulation of data until such time as the company becomes properly licensed with the NC Board.

CASE NO. V2010-098

Ali Abolhassani, PE [31362]
Anaheim, CA

VIOLATION: Had his license suspended and reinstated with conditions by another jurisdiction violating G.S. 89C and the Board Rules [.0701(h)].

BOARD ACTION: Suspend his Certificate of Licensure if Florida suspends or revokes his Engineering Certificate of Licensure as a result of the conditions of the Florida "Order Granting Reinstatement with Conditions," dated October 28, 2010, not being met, such suspension would then continue until such time as again reinstated in Florida. No active suspension of his NC license was imposed at the time of this Decision and Order.

CASE NO. V2010-099

Jeffrey L. Bateman, PLS [L-3502]
Holly Springs, NC

VIOLATION: Failed to report and show lappage [.1602(a), (f)] and failed to sign and seal a survey not marked as preliminary [.1103].

BOARD ACTION: Reprimand.

CASE NO. V2010-100

Stephen E. Wilson, PLS [L-1370]
Durham, NC

VIOLATION: Failed to report and show lappage [.1602(a), (f)].

BOARD ACTION: Reprimand.

CASE NO. V2010-104

Brian D. Blalock, PLS [L-4517]
Winston-Salem, NC

VIOLATION: Failed to sign and seal a survey not marked as preliminary [.1103]; failed to provide legend [.1604(d)(11)]; failed to provide vicinity map [.1604(d)(10)]; failed to identify all reference sources [.1602(f)]; failed to include firm license number on document [.1103(a)(6)]; and failed to report the results of a survey in a clear and factual manner [.1602(f)].

BOARD ACTION: Reprimand and pass Ethics Course offered by New Mexico State University.

CASE NO. V2011-019

Virginia Lake Management Company, Inc., unlicensed
Virginia Beach, VA

VIOLATION: Practiced or offered to practice land surveying in violation of G.S. 89C-24 and 55B.

BOARD ACTION: Issued letter to cause respondent to cease and desist practicing or offering to practice land surveying in NC, to include but not limited to "GPS Lake Mapping" presenting locational, measurement, or volume information for authoritative purposes (to be relied upon) or to a stated accuracy (including representing a precision to the data), until such time as the company becomes properly licensed with the NC Board.