
Florida Laws and Rules for Professional Engineers

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Chapter 1

Overview of the Florida Laws and Rules

The practice of engineering in the State of Florida is ultimately regulated by the Florida Laws and Rules stipulated in the Florida Statutes, Chapters 455 and 471, as well as the Florida Administrative Code, 61G15.

Florida Statutes (F.S.)

The Florida Statutes are a permanent collection of state laws organized by subject area into a code made up of titles, chapters, parts, and sections. The Florida Statutes are updated annually by laws that create, amend, or repeal statutory material.

The Florida Legislature found that it was necessary in the interest of public health and safety to regulate the practice of engineering in the State of Florida and thus created Chapter 471, F.S., "Engineering". Under this law the Florida Board of Professional Engineers is responsible for reviewing applications, administering examinations, licensing qualified applicants, and regulating the practice of engineering throughout the state.

While Chapter 471 is specific to the field of engineering, Chapter 455 is broader in nature and encompasses all business and professional regulations in general. As such, only pertinent sections of Chapter 455, F.S., apply to the engineering community.

Florida Administrative Code (FAC)

The Florida Administrative Code is a compilation of the rules and regulations of the Florida regulatory agencies. Its counterpart in the federal system is the *Code of Federal Regulations*. It is organized by titles with each title number representing a department, commission, board or other agency. The set has a single comprehensive index volume. The spines of the volumes indicate which titles are included.

The FAC states the rule followed by statutory authority, implementation and a history of the rule. The set is annotated with decisions of the Federal courts, State appellate courts, State Attorney General opinions, final and recommended orders of the Division of Administrative Hearings and final agency orders construing the rules Citations for the Florida Bar Journal and the law reviews of Florida State, the University of Florida, the University of Miami, as well as Stetson and Nova. At the end of each rule in the FAC, a history note is located in the italicized text which begins with the words "Specific Authority". The history note indicates when the rule has been modified, renumbered, or repealed. The FAC is updated each month.

Study Question 1:

List the three regulations that govern the practice of engineering in the State of Florida.

Similar to Chapter 471 of the Florida Statutes, Section 61G15 of the FAC pertains exclusively to the Florida Board of Professional Engineers and its functions with respect to the practice of engineering.

Florida Board of Professional Engineers (FBPE)

The Florida Board of Professional Engineers is the primary government body that regulates the practice of engineering within the State of Florida. The Board has authority to adopt rules pursuant to the provisions of Chapter 120.536(1) and 120.54 to implement provisions of Chapter 471, F.S., or Chapter 455, F.S., conferring duties upon it.

The Board consists of 11 members: nine licensed engineers and two laypersons who are not and have never been engineers or members of any closely related profession or occupation. The nine-member panel of licensed engineers consists of three civil engineers, one structural engineer, one electrical or electronic engineer, one mechanical engineer, one industrial engineer, one engineering educator, and one engineer of any discipline other than civil engineering. All 11 members are appointed by the Governor for terms of 4 years each.

Florida Engineers Management Corporation (FEMC)

FEMC is a non-profit, single purpose corporation that operates through a contract with the Department of Business and Professional Regulation. The FEMC Board of Directors is composed of seven members. Five members are appointed by the Florida Board of Professional Engineers and must be Florida registrants. Two members are appointed by the Secretary of the Department of Business and Professional Regulation and must be laypersons not regulated by the Board.

Under Section 471.038, F.S., administrative, investigative and prosecutorial services are provided to the Florida Board of Professional Engineers by the Florida Engineers Management Corporation (FEMC).

Study Question 2:

Who is the FEMC and what are its functions?

Chapter 2

Rules Affected in the F.A.C. 61G15 in the Preceding Biennium

The following rules have been adopted, amended or otherwise repealed from the Florida Administrative Code, 61G15 within the preceding biennium:

- 61G15-18.011 – Definitions
- 61G15-21.009 – Endorsement
- 61G15-23.002 – Seal, Signature and Date Shall Be Affixed
- 61G15-23.003 – Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents
- 61G15-31.001 – General Responsibility
- 61G15-31.007 – Design of Metal Building Sidings
- 61G15-32.001 – General Responsibility
- 61G15-32.002 – Definitions
- 61G15-32.003 – Common Requirements to All Fire Protection Engineering Documents
- 61G15-32.008 – Design of Fire Alarms and Detection Systems
- 61G15-35.004 – Common Requirements to All Engineers Providing Threshold Building Inspection Services as Special Inspectors

The changes associated with each of the aforementioned rules along with the final rule itself are indicated below.

RULE: 61G15-18.011 – Definitions

CHANGE: Amplified and clarified the meaning of “degree of control necessary for the Engineer of Record.”

PUBLISHED: February 20, 2009 - Florida Administrative Weekly

EFFECTIVE: June 6, 2009

61G15-18.011 – Definitions

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

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

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

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

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

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

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

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

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

3. The selection or development of techniques or

Study Question 3:

What are the primary engineering decisions that must be made by the Engineer of Record?

methods of testing to be used in evaluating materials or completed works, either new or existing.

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

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

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

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

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

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

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

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

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

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

(b) The planning or implementation of any investigation, inspection or testing program

for the purpose of determining the causes of failures.

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

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

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

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

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

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

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

RULE: 61G15-21.009 – Endorsement

CHANGE: Repealed due to its redundancy with Rule 61G15-20.0015, F.A.C.

PUBLISHED: April 10, 2009 - Florida Administrative Weekly

EFFECTIVE: June 2, 2009

61G15-21.009 – Endorsement

(Repealed)

Rulemaking Authority 471.008 FS. Law Implemented 471.015(3), (5) FS. History–New 8-23-98, Repealed 6-2-09.

RULE: 61G15-23.002 – Seal, Signature and Date Shall be Fixed

CHANGE: Updated procedures for electronically signing and sealing engineering documents.

PUBLISHED: January 16, 2009 - Florida Administrative Weekly

EFFECTIVE: June 6, 2009

61G15-23.002 - Seal, Signature and Date Shall Be Affixed

(1) A professional engineer shall sign by hand the licensee's handwritten signature (facsimiles are not acceptable) and affix the licensee's seal:

(a) To all final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and being filed for public record; and

(b) To all final documents provided to the owner or the owner's representative;

(c) In addition, the date that the signature and seal is affixed as provided herein shall be entered on said plans, specifications, reports, or other documents immediately adjacent to the signature of the professional engineer.

(d) In order to comply with the requirements of this rule, a licensee is not required to seal, sign and date documents other than those referenced in paragraph (a) or (b). This provision does not obviate any requirement of any public entity or any provision of contract which may require the sealing, signing and dating of additional original documents.

(2)(a) Every sheet of plans and prints which must be sealed under the provisions of Chapter 471, F.S., shall be sealed, signed and dated by the professional engineer in responsible charge.

(b) When an engineer must seal, sign and date engineering specifications or calculations under the provisions of Section 471.025, F.S., and subsection (1) of this rule, an index sheet for engineering specifications and calculations may be used. The index sheet must be signed, sealed and dated by those professional engineers in responsible charge of the production and preparation of each section of the engineering specifications or calculations, with sufficient information on index sheet so that the user will be aware of each portion of the specifications or calculations for which each professional engineer is responsible. In addition, the index sheet shall include at a minimum:

1. The name, address and license number of each engineer in responsible charge of the production of any portion of the calculations or specifications.

2. Identification of the project, by address or by lot number, block number, section or subdivision and city or county.

3. Identification of the applicable building code and chapter(s) that the design is intended to meet.

4. Identification of any computer program used for engineering the specifications or calculations.

(c) Engineering reports which must be signed, sealed and dated under the provisions of Section 471.025, F.S., and subsection (1) of this rule shall be sealed, signed and dated by

utilizing a signature page or cover letter that is sealed, signed and dated by each professional engineer who is in responsible charge of any portion of the report.

(3)(a) A title block shall be used on each sheet of plans or prints and shall contain the printed name, address, and license number of the engineer who has sealed, signed and dated the plans or prints.

(b) If the engineer sealing, signing and dating engineering plans or prints is practicing through a duly authorized engineering business, the title block required by paragraph (2)(a) shall contain the name, address and certificate of authorization number of the engineering business.

(c) If the licensee(s) sealing, signing and dating engineering specifications, calculations or reports is practicing through a duly authorized engineering business, the name, address and certificate of authorization number of the engineering business shall be placed on the index sheet, signature page or cover letter incorporated into or accompanying all engineering specifications, calculations or reports.

(4) Engineers working for local, State or Federal Government agencies shall legibly indicate their name and license number, and shall indicate the name and address of the agency on all documents that are required to be sealed, signed and dated.

(5) A professional engineer may only seal an engineering report, plan, print or specification if that professional engineer was in responsible charge, as that term is defined in subsection 61G15-18.011(1), F.A.C., of the preparation and production of the engineering document and the professional engineer has the expertise in the engineering discipline used in producing the engineering document in question.

(6) A professional engineer shall not seal original documents made of mylar, linen, sepia or other materials which can be changed by the entity with whom such document(s) are filed unless the professional engineer accompanies such document(s) with a signed and sealed letter making the receiver aware that copies of the original document as designed by the professional engineer have been retained by the professional engineer and that the professional engineer will not be responsible for any subsequent changes to the reproducible original documents.

(7) A professional engineer shall not seal plans, reports or other documents which are not final documents unless the professional engineer clearly notes any limitations on the use of the documents or plans on the face of the documents or plans, by using terms such as "Preliminary," "For Review Only," "Not for Construction," or any other suitable statement which denotes that the documents are for limited use, are not final and are not intended for permit, construction, or bidding purposes.

(8) Engineers who wish to sign and seal electronically transmitted plans, specifications, reports, final bid documents, or other documents shall follow the procedures set forth in Rule 61G15-23.003, F.A.C.

Rulemaking Authority 471.025 FS. Law Implemented 471.025 FS. History—New 1-8-80, Amended 1-20-85, Formerly 21H-23.02, Amended 5-14-86, Formerly 21H-23.002, Amended 11-15-94, 8-18-98, 2-3-00, 2-22-01, 2-5-04, 1-31-08, 5-6-09.

RULE: 61G15-23.003 – Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents

CHANGE: Updated procedures for electronically signing and sealing engineering documents.

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EFFECTIVE: June 6, 2009

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

(1) Engineering work which must be sealed under the provisions of Section 471.025, F.S., may be signed electronically or digitally as provided herein by the professional engineer in responsible charge. As used herein, the terms “digital signature” and “electronic signature” shall have the meanings ascribed to them in Sections 668.003(3) and (4), F.S. The affixing of a digital or electronic signature to engineering work as provided herein shall constitute the sealing of such work.

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

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

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

- (a) Unique to the person using it;
- (b) Capable of verification;
- (c) Under the sole control of the person using it;

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

(3) A professional engineer utilizing an electronic signature to seal engineering work shall create a “signature” file that contains the engineer’s name and PE number, a brief overall description of the engineering documents, and a list of the electronic files to be sealed. Each file in the list shall be identified by its file name utilizing relative Uniform Resource Locators (URL) syntax described in the Internet Architecture Board’s Request for Comments (RFC) 1738, December 1994, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: <http://ftp.isi.edu/in-notes/rfc1738.txt>. Each file shall have an authentication code defined as an SHA-1 message digest described in Federal Information Processing Standard Publication 180-1 “Secure Hash

Study Question 4:

What type of signature by the Engineer of Record is acceptable to the Board?

Standard," 1995 April 17, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: <http://www.itl.nist.gov/div897/pubs/fip180-1.htm>. The licenses shall then create a report that contains the engineer's name and PE number, a brief overall description of the engineering documents in question and the authentication code of the signature file. This report shall be printed and manually signed, dated, and sealed by the professional engineer in responsible charge. The signature file is defined as sealed if the signature file's authentication code matches the authentication code on the printed, manually signed, dated and sealed report. Each electronic file listed in a sealed signature file is defined as sealed if the listed authentication code in the signature file matches the electronic file's computed authentication code.

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

RULE: 61G15-31.001 – General Responsibility

CHANGE: Updated and clarified current standards and provided additional standards for the practice of structural engineering.

PUBLISHED: November 13, 2009 - Florida Administrative Weekly

EFFECTIVE: September 28, 2010

61G15-31.001 – General Responsibility

The Engineer of Record is responsible for all structural aspects of the design of the structure including the design of all of the structure's systems and components. As noted herein the engineer of record may delegate responsibility for the design of a system or component part of the structure to a delegated engineer. In either case the structural engineering documents shall address, as a minimum, the items noted in the following subsections covering specific structural systems or components. The Engineer of Record's structural engineering documents shall identify delegated systems and components. Both the Engineer of Record for the structure and the delegated engineer, if utilized, shall comply with the requirements of the general responsibility rules, Chapter 61G15-30, F.A.C., and with the requirements of the more specific structural responsibility rules contained herein. The Engineer of Record for the Structural System(s) shall provide design requirements in writing to the delegated engineer if one is used and shall review the design documents of the delegated engineer for conformance with his written instructions in accordance with Rule 61G15-30.005, F.A.C. When information collected from the engineer or the engineer's authorized representative from a site visit is part of the engineer's deliverative process, the engineer is responsible for the accuracy of such information.

Rulemaking Authority 471.033(2), 471.008 FS. Law Implemented 471.033(1)(g) FS. History—New 1-26-93, Formerly 21H-31.001, Amended 9-28-10.

RULE: **61G15-31.007 – Design of Metal Building Sidings**

CHANGE: Updated and clarified current standards and provided additional standards for the practice of structural engineering.

PUBLISHED: November 13, 2009 - Florida Administrative Weekly

EFFECTIVE: September 28, 2010

61G15-31.007 – Design of Metal Building Sidings

(1) A metal building system is defined as an integrated set of components and assemblies that are specifically designed to form a complete structural system. This typically includes primary framing comprised of constant depth or web-tapered structural steel frames, secondary members that are cold-formed steel or steel joists, a metal panel roof system and exterior wall cladding. These components and assemblies are manufactured in a manner that permits plant and/or field inspection prior to assembly or erection.

Study Question 5:

Name some of the components of a metal building system.

(2) Structural engineering documents prepared by the engineer of record shall reflect the design criteria for the metal building system as required in subsection 61G15-31.002(5), F.A.C. They shall indicate all openings, concentrated loads and other special requirements. Foundation conditions assumed in the design shall be indicated as well as the location and magnitude of building reactions on that foundation under all design conditions.

(3) The engineer of record may delegate responsibility of the design of the metal building system to a delegated engineer requiring submittal of structural delegated engineering documents.

(4) Structural delegated engineering documents shall identify the project and list loading and other design criteria. Structural delegated engineering documents shall include erection drawings which indicate in detail the construction of the structure used for the specific project. The structural delegated engineering documents shall indicate all connection details, openings and other special details. They shall show the magnitude and location of building reactions on the foundation under all design conditions. Calculations shall be provided, if requested by the engineer of record, to prove the design is in compliance with the written engineering requirements for the specific project. Structural delegated engineering documents shall bear the signature, date, and impressed seal of the Florida licensed delegated engineer.

Rulemaking Authority 471.033(2), 471.008 FS. Law Implemented 471.033(1)(g) FS. History—New 1-26-93, Formerly 21H-31.007, Amended 9-28-10.

RULE: 61G15-32.001 – General Responsibility

CHANGE: Clarified existing language and added tasks for which an Engineer of Record is responsible.

PUBLISHED: March 14, 2008 - Florida Administrative Weekly

EFFECTIVE: March 26, 2009

61G15-32.001 – General Responsibility

Fire protection engineering documents shall be prepared in accordance with applicable technology and the requirements of the authority having jurisdiction. The documents shall identify the Engineer of Record for the project. Both the Engineer of Record for the fire protection system and the delegated engineer, if utilized, shall comply with the requirements of the general responsibility rules, Chapter 61G15-30, F.A.C., and with the requirements of the more specific rules contained herein. The Engineer of Record for the Fire Protection System(s) shall provide design requirements in writing to the delegated engineer if one is used and shall review the design documents of the delegated engineer for conformance with his written instructions in accordance with Rule 61G15-30.005, F.A.C. Any Fire Protection Delegated Engineering Documents must be included in the final set of documents filed for permit.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.001, Amended 3-26-09.

RULE: 61G15-32.002 – Definitions

CHANGE: Added a new requirement with regard to Fire Protection Delegated Engineering Documents.

PUBLISHED: August 6, 2010 - Florida Administrative Weekly

EFFECTIVE: October 11, 2010

61G15-32.002 – Definitions

(1) Engineer of Record for the Fire Protection System(s): The Florida Registered Professional Engineer who develops the Fire Protection System(s) design criteria; performs analysis as required; and is responsible for the preparation of the Fire Protection System Engineering Documents. Except to the limited extent provided in subsection 61G15-32.002(10), F.A.C., the Engineer of Record for the Fire Protection system(s) is responsible for providing sealed, signed and dated Fire Protection System Engineering Documents that are in full conformity with the applicable design standards set forth in Rule Chapter 61G15-32, F.A.C.

(2) Fire Protection Component: Any individual part, subsystem or device to be incorporated in a Fire Protection System.

(3) Fire Protection System: Any assembly of Fire Protection components, materials, equipment, which require design to form a fully functional fire protection system.

(4) Listed: A fire protection component tested by a nationally recognized fire protection equipment testing organization. Recognized organizations include Underwriters Laboratories, Inc. and Factory Mutual Research Corporation.

(5) Fire Protection System Engineering Documents: The fire protection system engineering drawings, specifications, prescriptive and performance criteria, water supply analysis and other materials or representations, which are submitted with the general construction documents pursuant to Section 553.79(6), F.S., that set forth the overall design requirements and provide sufficient direction for the contractor to layout the construction, alteration, demolition, renovation, repair, modification, permitting and such, for any public or private fire protection system(s), which are prepared, signed, dated and sealed by the Engineer of Record for the Fire Protection System(s).

(6) Fire Protection System Layout Documents: Layout drawings, hydraulic calculations, catalog information on standard products, and other construction data prepared by the licensed contractor or Engineer of Record that provides detail on the location of risers, cross mains, branch lines, sprinkler heads, sizing of pipe, hanger locations, and hydraulic calculations and also serves as a guide for fabrication and installation of a fire protection system. Fire Protection System Layout Documents are based upon engineering direction provided in the Fire Protection System Engineering Documents and require no additional engineering input. These documents do not require the seal of a Florida registered engineer.

Study Question 6:

Do the "Fire Protection System Layout Documents" require the seal of a Florida registered engineer?

(7) Codes and Standards: Those nationally recognized codes and standards adopted directly or by reference in Chapter 633, F.S., Florida Building Code (2007) and Florida Fire Prevention Code set forth in Chapter 69A-60, F.A.C. Applicable codes and standards also include those promulgated by State and local authorities having jurisdiction. In the event the codes and standards fail to cover or address a specific protection requirement, alternative research, test results, and engineering data may be utilized, relying on the Engineer of Record for Fire Protection to make an informed engineering decision. This definition is not intended to preclude the use of new technologies when said technology has been demonstrated to provide equivalent or improved protection above that of published National Fire Protection standards.

(8) Material Deviation: Any deviation from the design parameters established and documented by the Engineer of Record.

(9) Layout: The location of risers, cross mains, branch lines, sprinkler heads, sizing of pipe, hanger locations, and hydraulic calculations based on engineering documents.

(10) Fire Protection Delegated Engineering Documents. Fire Protection System Engineering Documents prepared by a delegated engineer to whom the Engineer of Record for the Fire Protection System has contractually delegated responsibility for the design to be simultaneously submitted for permit of a discrete and limited portion of a fire protection system and which are signed, sealed and dated by the delegated engineer. These documents shall be reviewed and approved by the Engineer of Record for the Fire Protection System for conformity with the Engineer of Record's design intent and shall be included in the engineering design documents prepared prior to submittal for a building permit and Fire Department installation permit, except when no building permit is required. When no building permit is required, the delegated engineering work bearing the seal of delegated engineer and approval of the Engineer of Record for the Fire Protection System shall be submitted together to the fire official for permitting.

Rulemaking Authority 471.008, 471.033(2) FS. Law Implemented 471.005(7), 471.033(2) FS. History—New 5-19-93, Formerly 21H-32.002, Amended 4-2-00, 6-26-01, 3-26-09, 10-11-10.

RULE: 61G15-32.003 – Common Requirements to All Fire Protection Engineering Documents

CHANGE: Added new requirements for Fire Protection Electrical Engineering Documents.

PUBLISHED: March 14, 2008 - Florida Administrative Weekly

EFFECTIVE: March 26, 2009

61G15-32.003 – Common Requirements to All Fire Protection Engineering Documents

(1) The Fire Protection System Engineering Documents shall provide the engineering requirements to be used in the preparation of the Fire Protection System Layout Documents and to indicate the nature and scope of the work, and to describe, detail, dimension, label and define the Fire Protection Components, System(s), materials, assemblies, equipment and its structural and utility support system(s), insofar as they involve the safeguarding of life, health or property.

(2) The Fire Protection System Engineering Documents shall specify the applicable requirements for the acceptance testing of the fire protection system and components, which shall be based upon applicable codes and standards, where available.

(3) The occupancy of the area or description of a specific hazard being protected by the Fire Protection System(s) shall be shown on the Fire Protection System Engineering Documents.

(4) The applicable code and standard to be used in the preparation of the Fire Protection System Layout Documents shall be shown on the Fire Protection System Engineering Documents. When codes and standards are not available or applicable, and said layout documents are to be based on engineering judgment, any reasons and assumptions made to develop the fire protection concept shall be identified on the Fire Protection System Engineering Documents.

(5) Structural support and structural openings required by the Fire Protection System shall be shown on the Fire Protection System Engineering Documents and shall be referenced on structural engineering documents.

(6) When layout documents contain material deviation from the Engineer of Record's Fire Protection System Engineering Document, such layout documents are not compliant unless they are accompanied by revised Engineering Documents made and sealed by the Engineer of Record for the Fire Protection System.

(7) Requirements for activation control systems, sequence, operating parameters, interlocks, safety related devices, indicators and alarms, shall be shown on the Fire Protection System Engineering Documents, unless shown on other related documents.

(8) Any information deemed appropriate by the Engineer of Record to assist the authority having jurisdiction in understanding the owner's intended use and proposed protection of the building or facility and to provide sufficient direction to the installation contractor or other interested parties regarding the layout of the system(s), shall be included in the Fire Protection System Engineering Documents.

(9) Fire Protection Electrical Engineering Documents shall additionally meet the requirements of Rule 61G15-30.003, F.A.C., Engineering Documents.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.005(7), 471.033(2) FS. History—New 5-19-93, Formerly 21H-32.003, Amended 4-2-00, 6-26-01, 3-26-09.

RULE: 61G15-32.008 – Design of Fire Alarms and Detection Systems

CHANGE: Replaced old definitions of fire alarms, signaling, and control systems with new ones and established new requirements for such fire alarms, signaling, and control systems.

PUBLISHED: February 6, 2009 - Florida Administrative Weekly

EFFECTIVE: March 26, 2009

61G15-32.008 – Design of Fire Alarms and Detection Systems

(1) Fire alarms and detection systems include fire protection supervision, emergency alarm circuits, activation of life safety system controls and remote signaling of emergency conditions.

(2) The design specifications shall be based on the Florida Building Code (2007), the Florida Fire Prevention Code, or as required by the local authority having jurisdiction.

(3) For fire alarm plans on small systems below the threshold requirements for mandatory use of professional engineering services, the Engineer of Record shall specify the minimum system requirements.

(4) To ensure minimum design quality of Fire Alarm and Detection Systems Engineering Documents, said documents shall include as a minimum the following information when applicable:

(a) The plans shall be clear, with a symbols legend, system riser diagram showing all initiation and notification components, and cabling requirements. Indicate locations where fire ratings are required as determined by the system's survivability requirements. Identify the general occupancy of the protected property, and for each room and area unless it is clear from features shown.

(b) Locate initiation and notification devices and connections to related systems on the floor plans and sections when needed for clarity. Related systems include elevator controls smoke control systems, dampers, and doors.

(c) Strobe intensity and speaker output ratings for all notification devices.

(d) Identify the Class and Style of circuits as listed in the NFPA 72.

(e) Identify the functions required by the alarm and control systems including the transmission of emergency signals being monitored or annunciated.

(f) Indicate whether the fire alarm is conventional or addressable, and indicate all zoning.

(g) Locate surge protective devices and required protective features.

(h) Locate system devices that are subject to environmental factors, and indicate requirements for the protection of equipment from temperature, humidity or corrosive atmospheres, including coastal salt air.

(i) The plans shall include a site plan of the immediate area around the protected building, structure or equipment when alarm devices are required outside the structure.

(j) In buildings where smoke detection will be obstructed by walls, beams or ceiling features, the Engineer of Record shall provide applicable design and details to direct the installer to mitigate the obstructions. In buildings with smoke detection under a pitched roof, the plans shall indicate the roof pitch and a building section shall be provided as part of the Engineering Design Documents.

(k) Fire detection systems utilizing smoke detection in situations where smoke stratification is anticipated, the design shall provide the necessary criteria to mitigate the detection problems.

(l) Systems designed using Performance Based criteria shall be identified and referenced to design guides or standards approved by the local authority having jurisdiction consistent with standards adopted by the Florida Fire Prevention Code and the Florida Building Code (2007).

(m) The system design must indicate if the system is to provide a general evacuation signal or a zoned evacuation for all high-rise buildings or multi-tenanted properties as defined in the Florida Building Code (2007).

(n) Wiring requirements for underground, wet locations, campus style wiring, protection against damage and burial depth shall be specified or indicated on the engineering design documents.

(o) Requirements for operations and maintenance procedures, manuals, system documentation, and instruction of Owner's operating personnel, as needed to operate the systems as intended over time.

(5) In the event that the Engineer of Record elects to specify specific equipment and to show the required wiring, battery and voltage drop (circuit analysis) calculations shall be completed. The calculations shall be completed using the equipment manufacturer's data and applicable NFPA 72 procedures.

(6) System test requirements shall be noted on the Engineering Design Documents.

(7) When the engineer determines that special requirements are required by the owner, insurance underwriter or local fire code amendments these requirements shall be documented or referenced on the Engineering Design Documents.

Study Question 7:

What NFPA procedures" should be followed when performing calculations for fire alarm and detection system design?

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.008, Amended 3-26-09.

RULE: 61G15-35.004 – Common Requirements to All Engineers Providing Threshold Building Inspection Services as Special Inspectors

CHANGE: Clarified requirements for “Authorized Representatives”.

PUBLISHED: February 6, 2009 - Florida Administrative Weekly

EFFECTIVE: June 6, 2009

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

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

(2) Special Inspectors utilizing Authorized Representatives shall insure the Authorized Representative is qualified by education or licensure to perform the duties assigned by the Special Inspector. The qualifications shall include licensure as a professional engineer or architect; graduation from an engineering education program in civil or structural engineering; graduation from an architectural education program; successful completion of the NCEES Fundamentals Examination; or licensed building inspector with the Board of Building Code Administrators, Chapter 468, F.S. or licensed general contractor under Chapter 489, F.S.

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

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

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

Chapter 3

Changes to Chapters 455 and 471, F.S. in the Preceding Biennium

Few changes have been made to the following sections of Chapters 455 and 471, F.S. within the preceding biennium:

- 455.02 – Licensure of Members of The Armed Forces in Good Standing and their Spouses with Administrative Boards
- 455.2122 – Education
- 455.2123 – Continuing Education
- 455.213 – General Licensing Provisions
- 455.217 – Examinations
- 455.2175 – Penalty for Theft or Reproduction of an Examination
- 455.227 – Grounds for Discipline; Penalties; Enforcement
- 455.2274 – Criminal Proceedings against Licensees; Appearances by Department Representatives
- 455.271 – Inactive and Delinquent Status
- 455.275 – Address of Record
- 471.003 – Qualifications for Practice; Exemptions
- 471.0195 – Florida Building Code Training for Engineers

The statutory changes as well as the revised statutory requirements associated with each of the aforementioned chapters are indicated below.

STATUTE: 455.02 – Licensure of Members of the Armed Forces in Good Standing and their Spouses with Administrative Boards

CHANGE: Authorized spouses of active members of the U.S. Armed Forces to apply for a 6-month non-renewable professional license. (*Amended Subsection 2 and Added Subsection 3*)

455.02 – Licensure of Members of The Armed Forces in Good Standing and Their Spouses with Administrative Boards

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of becoming such a member, was in good standing with any administrative board of the state and was entitled to practice or engage in his or her profession or vocation in the state shall be kept in good standing by such administrative board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after discharge from active duty as a member of the Armed Forces of the United States, if he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

(2) The boards listed in s. 20.165 shall adopt rules that exempt the spouse of a member of the Armed Forces of the United States from licensure renewal provisions, but only in cases of his or her absence from the state because of his or her spouse's duties with the Armed Forces.

(3)(a) The department may issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States if the spouse applies to the department in the format prescribed by the department. An application must include proof that:

1. The applicant is married to a member of the Armed Forces of the United States who is on active duty.

2. The applicant holds a valid license for the profession issued by another state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction.

3. The applicant's spouse is assigned to a duty station in this state and that the applicant is also assigned to a duty station in this state pursuant to the member's official active duty military orders.

4.a. A complete set of the applicant's fingerprints ¹is submitted to the Department of Law Enforcement for a statewide criminal history check.

b. The Department of Law Enforcement shall forward the fingerprints ²submitted pursuant to sub-subparagraph a. to the Federal Bureau of Investigation for a national criminal history check. The department shall, and the board may, review the results of the criminal history checks according to the level 2 screening standards in s. 435.04 and determine whether the applicant meets the licensure requirements. The costs of fingerprint

processing shall be borne by the applicant. If the applicant's fingerprints are submitted through an authorized agency or vendor, the agency or vendor shall collect the required processing fees and remit the fees to the Department of Law Enforcement.

(b) An application must be accompanied by an application fee prescribed by the department that is sufficient to cover the cost of issuance of the temporary license.

(c) A temporary license expires 6 months after the date of issuance and is not renewable.

History.—s. 2, ch. 21885, 1943; s. 5, ch. 79-36; s. 95, ch. 83-329; s. 1, ch. 84-15; s. 71, ch. 85-81; s. 6, ch. 93-220; s. 186, ch. 97-103; s. 5, ch. 2010-106; s. 4, ch. 2010-182.

¹*Note.—The word "is" was substituted by the editors for the word "are," which was enacted by s. 5, ch. 2010-106. Section 4, ch. 2010-182, enacted the words "has been" instead of the word "are."*

²*Note.—As enacted by s. 4, ch. 2010-182. Subsection (3) was also added by s. 5, ch. 2010-106, and that version did not use the phrase "submitted pursuant to sub-subparagraph a." Note.—Former s. 485.02.*

STATUTE: 455.2122 – Education

CHANGE: Authorized the Board to approve distance learning courses as an alternative to a classroom setting to satisfy prelicensure or postlicensure education requirements. (*Added Section 455.2122*)

455.2122 – Education

A board, or the department where there is no board, shall approve distance learning courses as an alternative to classroom courses to satisfy prelicensure or postlicensure education requirements provided for in part VIII of chapter 468 or part I of chapter 475. A board, or the department when there is no board, may not require centralized examinations for completion of prelicensure or postlicensure education requirements for those professions licensed under part VIII of chapter 468 or part I of chapter 475.

History.—s. 6, ch. 2010-106; s. 4, ch. 2010-176.

STATUTE: 455.2123 – Continuing Education

CHANGE: Authorized the Board to approve distance learning courses as an alternative to a classroom setting to satisfy continuing education requirements. (Amended Section 455.2123)

455.2123 – Continuing Education

A board, or the department when there is no board, may provide by rule that distance learning may be used to satisfy continuing education requirements. A board, or the department when there is no board, shall approve distance learning courses as an alternative to classroom courses to satisfy continuing education requirements provided for in part VIII, part XV, or part XVI of chapter 468 or part I or part II of chapter 475 and may not require centralized examinations for completion of continuing education requirements for the professions licensed under part VIII, part XV, or part XVI of chapter 468 or part I or part II of chapter 475.

Study Question 8:

Is distance learning allowed by the Board to satisfy continuing education requirements for professional engineers?

History.—s. 137, ch. 99-251; s. 7, ch. 2010-106; s. 5, ch. 2010-176.

STATUTE: 455.213 – General Licensing Provisions

CHANGE: Specified the conditions under which a licensee’s application is considered officially received by the Board and emphasized the conditions under which a licensee must surrender his or her license. (*Amended Subsections 1 and 2*)

455.213 – General Licensing Provisions

(1) Any person desiring to be licensed shall apply to the department in writing. The application for licensure shall be submitted on a form prescribed by the department and must include the applicant’s social security number. Notwithstanding any other provision of law, the department is the sole authority for determining the contents of any documents to be submitted for initial licensure and licensure renewal. Such documents may contain information including, as appropriate: demographics, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, fingerprint requirements, continuing education requirements, and ongoing education monitoring. The application shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department’s agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department. In cases where a person applies or schedules directly with a national examination organization or examination vendor to take an examination required for licensure, any organization- or vendor-related fees associated with the examination may be paid directly to the organization or vendor. An application is received for purposes of s. 120.60 upon the department’s receipt of the application submitted in the format prescribed by the department; the application fee set by the board or, if there is no board, set by the department; and any other fee required by law or rule to be remitted with the application.

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

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

STATUTE: 455.217 – Examinations

CHANGE: Eliminated the requirement for passing a laws and rules examination applicable to the practice of the profession for persons regulated under Chapter 473. (*Amended Subsection 7*)

455.217 – Examinations (*Excerpt only*)

(7) In addition to meeting other requirements for licensure by examination or by endorsement, an applicant may be required by a board, or by the department, if there is no board, to pass an examination pertaining to state laws and rules applicable to the practice of the profession regulated by that board or by the department. This subsection does not apply to persons regulated under chapter 473.

History.—s. 30, ch. 69-106; s. 1, ch. 73-97; s. 3, ch. 77-115; s. 5, ch. 79-36; s. 286, ch. 81-259; s. 30, ch. 81-302; s. 4, ch. 82-1; s. 39, ch. 82-179; s. 80, ch. 83-218; s. 10, ch. 83-329; s. 1, ch. 88-49; s. 2, ch. 89-162; s. 2, ch. 91-137; s. 1, ch. 91-140; s. 11, ch. 91-220; s. 15, ch. 92-149; s. 5, ch. 94-119; s. 70, ch. 94-218; s. 303, ch. 96-406; s. 1080, ch. 97-103; s. 2, ch. 97-228; s. 12, ch. 97-261; s. 18, ch. 99-7; s. 28, ch. 2000-160; s. 6, ch. 2000-356; s. 23, ch. 2008-240; s. 1, ch. 2009-54; s. 1, ch. 2009-69; s. 63, ch. 2009-195; s. 9, ch. 2010-106.

Note.—Former s. 455.007(2).

STATUTE: 455.2175 – Penalty for Theft or Reproduction of an Examination

CHANGE: Mandated that an examinee whose examination materials are confiscated is not permitted to take another examination until the criminal investigation reveals that the examinee did not violate this section.
(Amended Section 455.2175)

455.2175 – Penalty for Theft or Reproduction of an Examination

In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the department, whether such examination is reproduced or copied in part or in whole and by any means, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. An examinee whose examination materials are confiscated is not permitted to take another examination until the criminal investigation reveals that the examinee did not violate this section.

History.—s. 3, ch. 90-228; s. 3, ch. 91-137; s. 47, ch. 92-33; s. 23, ch. 93-129; s. 71, ch. 94-218; s. 13, ch. 97-261; s. 10, ch. 2010-106.

STATUTE: 455.227 – Grounds for Discipline; Penalties; Enforcement

CHANGE: Introduced two more acts that constitute grounds for disciplinary action. (*Added Subsections 1(t) and 1 (u)*)

455.227 – Grounds for Discipline; Penalties; Enforcement (*Excerpts only*)

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

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

Study Question 9:

After how many days must a licensee report to the Board his or her conviction?

(u) Termination from a treatment program for impaired practitioners as described in s. [456.076](#) for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program.

History.—s. 5, ch. 79-36; s. 13, ch. 83-329; s. 5, ch. 88-380; s. 8, ch. 91-137; s. 55, ch. 92-33; s. 22, ch. 92-149; s. 23, ch. 93-129; s. 9, ch. 94-119; s. 80, ch. 94-218; s. 5, ch. 95-187; s. 22, ch. 97-261; s. 144, ch. 99-251; s. 32, ch. 2000-160; s. 2, ch. 2009-195; s. 12, ch. 2010-106.

STATUTE: 455.2274 – Criminal Proceedings Against Licensees; Appearances by Department Representatives

CHANGE: Authorized the department to provide a representative to assist the court with criminal proceedings against licensees. (*Amended Section 455.2274*)

455.2274 – Criminal Proceedings against Licensees; Appearances by Department Representatives

A representative of the department may voluntarily appear in a criminal proceeding brought against a person licensed by the department to practice a profession regulated by the state. The department's representative is authorized to furnish pertinent information, make recommendations regarding specific conditions of probation, and provide other assistance to the court necessary to promote justice or protect the public. The court may order a representative of the department to appear in a criminal proceeding if the crime charged is substantially related to the qualifications, functions, or duties of a license regulated by the department.

History.—s. 3, ch. 2009-195.

STATUTE: 455.271 – Inactive and Delinquent Status

CHANGE: Eliminated the requirement for satisfying continuing education requirements prior to reactivation of a delinquent or inactive license for persons regulated under Chapter 473. (*Amended Subsection 10*)

455.271 – Inactive and Delinquent Status (*Excerpt only*)

(10) Before reactivation, an inactive or delinquent licensee shall meet the same continuing education requirements, if any, imposed on an active status licensee for all biennial licensure periods in which the licensee was inactive or delinquent. This subsection does not apply to persons regulated under chapter 473.

History.—s. 14, ch. 94-119; s. 1, ch. 2005-249; s. 2, ch. 2009-54.

STATUTE: 455.275 – Address of Record

CHANGE: Added more details regarding the licensee's address of record when an administrative complaint is served.
(Added Subsections 3(a) and 3(b))

455.275 – Address of Record

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

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

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

(b) If service, as provided in paragraph (a), does not provide the department with proof of service, the department shall call the last known telephone number of record and cause a short, plain notice to the licensee to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address of record. If a newspaper is not published in the county, the administrative complaint may be published in a newspaper of general circulation in the county. If the licensee's last known address is located in another state or in a foreign jurisdiction, the administrative complaint may be published in Leon County pursuant to s. 120.60(5).

History.—s. 16, ch. 94-119; s. 14, ch. 2010-106.

STATUTE: 471.003 – Qualifications for Practice; Exemptions

CHANGE: Raised the dollar value of electrical, plumbing or air-conditioning and refrigeration work from \$50,000 to \$125,000. (*Amended Subsection (2)(h)(1)*)

471.003 – Qualifications for Practice; Exemptions (*Excerpts only*)

(2) The following persons are not required to be licensed under the provisions of this chapter as a licensed engineer:

(h) Any electrical, plumbing, air-conditioning, or mechanical contractor whose practice includes the design and fabrication of electrical, plumbing, air-conditioning, or mechanical systems, respectively, which she or he installs by virtue of a license issued under chapter 489, under part I of chapter 553, or under any special act or ordinance when working on any construction project which:

1. Requires an electrical or plumbing or air-conditioning and refrigeration system with a value of \$125,000 or less;

2.a. Requires an aggregate service capacity of 600 amperes (240 volts) or less on a residential electrical system or 800 amperes (240 volts) or less on a commercial or industrial electrical system;

b. Requires a plumbing system with fewer than 250 fixture units; or

c. Requires a heating, ventilation, and air-conditioning system not to exceed a 15-ton-per-system capacity, or if the project is designed to accommodate 100 or fewer persons.

History.—ss. 10, 42, ch. 79-243; ss. 3, 10, ch. 81-302; ss. 2, 3, ch. 81-318; s. 5, ch. 82-179; s. 3, ch. 83-160; ss. 46, 119, ch. 83-329; s. 1, ch. 85-134; s. 57, ch. 87-225; s. 2, ch. 87-341; s. 2, ch. 87-349; ss. 1, 14, 15, ch. 89-30; s. 1, ch. 89-115; s. 67, ch. 89-162; s. 4, ch. 91-429; ss. 80, 118, ch. 94-119; s. 330, ch. 97-103; s. 65, ch. 98-287; s. 31, ch. 2000-356; s. 16, ch. 2002-299; s. 1, ch. 2003-425; s. 4, ch. 2004-332; s. 64, ch. 2009-195.

STATUTE: 471.0195 – Florida Building Code Training for Engineers

CHANGE: Eliminated the requirement for completing the core curriculum courses but also removed the option of passing the the equivalency test of the Building Code Training Program (*Amended Section 471.0195*)

471.0195 – Florida Building Code Training for Engineers

All licensees actively participating in the design of engineering works or systems in connection with buildings, structures, or facilities and systems covered by the Florida Building Code shall take continuing education courses and submit proof to the board, at such times and in such manner as established by the board by rule, that the licensee has completed any specialized or advanced courses on any portion of the Florida Building Code applicable to the licensee's area of practice. The board shall record reported continuing education courses on a system easily accessed by code enforcement jurisdictions for evaluation when determining license status for purposes of processing design documents. Local jurisdictions shall be responsible for notifying the board when design documents are submitted for building construction permits by persons who are not in compliance with this section. The board shall take appropriate action as provided by its rules when such noncompliance is determined to exist.

Study Question 10:

Does a licensee have to take continuing education courses when involved in the design of facilities or systems covered by the Florida Building Code?

History.—s. 38, ch. 2000-356; s. 23, ch. 2002-299; s. 12, ch. 2009-195.

Chapter 4

Review of the Disciplinary Process

Investigating the Complaint

Complaints against licensed professional engineers can be filed by anyone. Once filed, the Board will investigate the complaint if it is in writing, signed by the complainant, and legally sufficient. If the complaint is anonymous (unsigned), the Board will investigate the complaint provided it is in writing, legally sufficient, and the alleged violation of law or rules is substantial and true.

In order to determine legal sufficiency, the Board may investigate the complaint to determine whether supporting information or documentation is required. The Board may still investigate and take appropriate final action on a complaint even if the complainant withdraws the complaint or desires not to proceed with it.

“A complaint is considered legally sufficient if it contains facts showing that a violation of any provision of Chapter 455 and Chapter 471, or any other rule of the board, has occurred.”

Notifying the Subject

When the Board initiates the investigation, it will provide the subject or the subject's legal counsel a copy of the complaint. The subject has 20 days from the date of issue to respond to the complaint. The subject's written response shall be considered by the probable cause panel as part of the evidence.

Finding Probable Cause

When the Board's investigation is complete and legally sufficient, the Board will prepare and submit the investigative report to the probable cause panel. In turn, the probable cause panel will determine if a probable cause exists by a majority vote within 30 days after receiving the final investigative report from the Board.

“The probable cause panel shall be composed of either three active Board members or two active board members and one former board member. Said members shall be appointed as a standing probable cause committee at the first board meeting of each calendar year and shall serve for a period of one (1) year.”

If the probable cause panel finds that probable cause exists, it will advise the Board to file a formal complaint against the subject and recommend the appropriate penalties. The Board may elect to concur with the panel's recommendations, file a formal complaint against the subject of the investigation and issue a Final Order. However, the Board may decide to override the panel's recommendations if it finds that probable cause had been extravagantly found by the panel, thereby reducing the penalties as part of the Final Order.

In lieu of a finding of probable cause, the probable cause panel may issue a letter of guidance to the subject.

Study Question 11:

Who is the PCP and what is its role?

Addressing the Violation

The subject has the right in addressing the formal complaint in one of the following ways:

- a. Attend to a formal hearing before an administrative law judge from the Division of Administrative Hearings where the subject can raise any disputed issues of material fact. The administrative law judge will issue a recommended order.
- b. Attend to an informal hearing where disputed issues of material fact may not be raised by any party. If raised, the informal hearing will be terminated and a formal hearing will be held.
- c. Enter into a stipulation issued by the Board.

Study Question 12:

List the three methods a subject may address a violation.

Issuing the Final Order

The Board will determine and issue the Final Order in each disciplinary case regardless of the method used to settle a complaint. Such order constitutes the final agency action. Any consent order or agreed settlement will be approved by the Board. The Board may elect one of the following actions:

- a. Dismiss any case, or any part thereof, if the Board determines that there is insufficient evidence to support the case.
- b. Provide the subject with a notice of noncompliance for an initial offense of a minor violation as described under the "Disposing Violations" section below.

"A violation is a minor violation if it does not demonstrate a serious inability to practice the profession, result in economic or physical harm to a person, or adversely affect the public health, safety, or welfare or create a significant threat of such harm."
- c. Impose any of the disciplinary penalties upon the subject when found to be in violation of Chapters 455, F.S. and 471, F.S. These penalties are indicated under the "Disciplinary Guidelines" section below as well as described in greater detail under Appendix A, "Range of Penalties".

Imposing Disciplinary Penalties

The Board has established disciplinary guidelines from which disciplinary penalties are imposed. The guidelines are based upon a single count violation of each provision listed. Multiple counts of violations will be grounds for increasing the penalties. Any penalty, or combination thereof, is issued as part of the Final Order at the Board's discretion.

All probation penalties include successful completion of the Engineering Law and Rules Study Guide, completion of a Board-approved course in Engineering Professionalism and Ethics, and an appearance before the Board at the option of the Board at the end of the probationary period. Other terms may be imposed by the Board at its discretion.

The bottom line is that if you commit one of the following acts:

- (a) Violating any provision of s. 455.227(1), s. 471.025, or s. 471.031, or any other provision of this chapter or rule of the board, or department.*
- (b) Attempting to procure a license to practice engineering by bribery or fraudulent misrepresentations.*
- (c) Having a license to practice engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for any act that would constitute a violation of this chapter or chapter 455.*
- (d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of engineering or the ability to practice engineering.*
- (e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those that are signed in the capacity of a licensed engineer.*
- (f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.*
- (g) Engaging in fraud or deceit, negligence, incompetence, or misconduct, in the practice of engineering.*
- (h) Violating chapter 455.*
- (i) Practicing on a revoked, suspended, inactive, or delinquent license.*
- (j) Affixing or permitting to be affixed his or her seal, name, or digital signature to any final drawings, specifications, plans, reports, or documents that were not prepared by him or her or under his or her responsible supervision, direction, or control.*
- (k) Violating any order of the board or department previously entered in a disciplinary hearing.*
- (l) Performing building code inspection services under s. 553.791, without satisfying the insurance requirements of that section.*

Study Question 13:

Who is responsible for issuing the final order including the imposition of disciplinary penalties?

Study Question 14:

What constitutes a minor violation?

You will be issued one or more of the following penalties:

- (a) Denial of an application for licensure.*
- (b) Revocation or suspension of a license.*
- (c) Imposition of an administrative fine not to exceed \$5,000 for each count or separate offense.*
- (d) Issuance of a reprimand.*
- (e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify.*
- (f) Restriction of the authorized scope of practice by the licensee.*
- (g) Restitution.*

Aggravating and Mitigating Circumstances

The Board may deviate from the aforementioned guidelines if there is clear and convincing evidence of aggravating or mitigating circumstances. Whether a Hearing Officer of the Division of Administrative Hearings may or may not have been aware will not avert the duty of the Board to consider aggravating and mitigating circumstances brought to its attention prior to the issuance of a Final Order.

Aggravating circumstances which may cause the enhancement of a penalty beyond the maximum level of discipline include the following:

- 1. History of previous violations of the practice act and the rules promulgated thereto.*
- 2. Magnitude and scope of the project and the damage inflicted upon the general public by the licensee's negligence*
- 3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.*
- 4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 455.225(3), F.S., has previously been issued to the licensee.*

Mitigating circumstances which may cause the lessening of a penalty beyond the minimum level of discipline include the following:

- 1. Minor nature of the project in question and lack of danger to the public health, safety and welfare resulting from the licensee's negligence.*
- 2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.*
- 3. Restitution of any damages suffered by the licensee's client.*
- 4. The licensee's professional standing among his peers including continuing education.*
- 5. Steps taken by the licensee or his firm to insure the non-occurrence of similar violations in the future.*

Disposing the Violation

The Board may dispose of any violations in one of the following ways:

Notice of Non-Compliance:

The following violations may be disposed of by notice of noncompliance for an initial offense for the following violations:

- Failure to date documents when affixing signature and seal.
- Practice with an inactive or delinquent license less than one (1) month.
- Firm practicing without a current certificate of authorization less than one (1) month.

A second offense will result in issuance of a citation pursuant to Rule 61G15-19.0071, FAC. The subject has fifteen (15) days from the date the citation becomes a Final Order to pay the fine and costs.

Mediation

The following violations may be disposed of by mediation for a first offense:

- (a) Practice with an improper seal.
- (b) Failure to date documents when affixing signature and seal.

Citations

The following violations with the accompanying fines may be disposed of by citation:

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

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

(c) Firm practicing without a current certificate of authorization more than one (1) month or if a Notice of Noncompliance has previously been issued for the same offense. The fine shall be \$100 for each month or fraction thereof. (See Section 471.023, F.S.)

(d) Failure to notify the Board of a change in the principal officer of the corporation or partner in a partnership who is the qualifying professional engineer for said corporation or partnership within one (1) month of such change. The fine shall be \$500. (See Section 471.023(4), F.S.)

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

If the subject does not dispute the citation in writing within thirty (30) days, the citation will become a Final Order of the Board. The subject has thirty (30) days from the date the citation becomes a Final Order to pay the fine and costs.

Study Question 15:

List the three methods of disposing violations.

Confidentiality of Investigations

The investigation records are confidential until an investigation ceases to be active. An investigation ceases to be active when the case is dismissed prior to a finding of probable cause and the Board has not exercised its option to pursue the case or ten (10) days after the Board makes a determination regarding probable cause. However, in response to an inquiry about the licensure status of an individual, the management corporation may disclose the existence of an active investigation if the nature of the violation under investigation involves the potential for substantial physical or financial harm to the public such as negligence or misconduct.

Chapter 5

Review of Disciplinary Cases

The following disciplinary cases were extracted from the Board's bimonthly meeting minutes within the preceding biennium. In selecting these cases, different scenarios of violations are depicted along with their corresponding Final Orders issued by the Board.

FEMC Case No: 2009000306
FEMC Case No: 2009040973
FEMC Case No: 2008045140
FEMC Case No: 2007038075
FEMC Case No: 2008035570

Applicability of the Florida Laws and Rules to each individual case is discussed below.

FEMC CASE No: 2009000306

DOCUMENT: FBPE Meeting Minutes, December 2010
RESPONDENT: Represented by Counsel but not Present
PCP: Charland and Rebane
CHARGE: Negligence

Case Review

The Respondent was present for his hearing and was represented by counsel but counsel was not present. The Respondent was present and sworn in prior to addressing the board.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1) (g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

Probable Cause was found in May 2010 and an Administrative Complaint authorized. The Respondent signed a Stipulation to resolve the matter on November 11, 2010.

The Probable Cause Panel recommendation is a Reprimand; \$1,000.00 administrative fine; costs of \$534.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Subject will be placed on 2 year(s) probation with plan review at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: his understanding of signing and sealing design documents and what improvements and quality control measures he plans to implement to improve his work product. The second year of PROBATION will be terminated early if, at the sole discretion of the Board Consultant and the Board, it is determined that the initial plan review report was "favorable" (defined in the Stipulation as being free of any material deficiencies).

The Respondent addressed the board on his understanding of signing and sealing design documents and what improvements and quality control measures he plans to implement to improve his work product.

Upon motion by Mr. Hahn, seconded by Mr. Batterson, the stipulation was adopted. The motion passed.

Applicability of the Laws and Rules

In this case, the Respondent was charged with one count of negligence. Negligence, as defined by the Florida Administrative Code, Section 61G15-19.001(4), is "the failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principles." The Respondent elected to enter into a stipulation that the probable cause panel recommended and the Board approved. In this case, the stipulation resulted in minimum penalties for negligence indicated in the Florida Administrative Code, Section 61G15-19.0004(2)(a) along with penalties associated with probation.

FEMC CASE No: 2009040973

DOCUMENT: FBPE Meeting Minutes, April 2010
RESPONDENT: Not Represented by Counsel
PCP: Rebane, Charland and Hylard
CHARGE: Fraud; No Certificate of Authorization

Case Review

The Respondent was present and sworn in before addressing the board.

Mr. Rimes explained the facts of this case. The charges relate to a violation of Section 471.033(1)(a), F.S., Section 455.227(1)(k) by issuing an engineering report using a fictitious name for which no certificate of authorization has been issued by the Board. Mr. Rimes explained his discussions with the Respondent and his belief that the Respondent failure to apply for a CA was not done in malice but from confusion.

On November 17, 2009 Probable Cause was found and an AC was authorized. After considerable discussion with Respondent and after explanation as to what was required was communicated to Respondent, the parties entered into a Stipulation on March 16, 2010. The Respondent addressed the board and initially appeared to dispute the facts of the case.

Mr. Flury asked the Respondent if he wants to withdraw from the stipulation. The Respondent said the only way he could address the board was to sign the stipulation. He is asking for the board's review and possible dismissal of the case.

Mr. Rimes conveyed to the Board his plan to proceed with a Formal Hearing if the Respondent withdraws from the stipulation. He believed in a Formal Hearing the fine against the Respondent could be as much as \$5,000.

The stipulation calls for an Appearance; Citation for \$100.00; Letter of Guidance; Costs of \$156.00. Upon motion by Mr. Hahn seconded by Dr. Bauer, the stipulation was adopted. The motion passed.

Applicability of the Laws and Rules

In this case, the Respondent was charged with one count of practicing without a Certificate of Authorization.

"A certificate of authorization is required for any business organization or other person practicing under a fictitious name, offering engineering services to the public" as stipulated under Section 471.023(2) of the Florida Statutes.

In this case, the probable cause panel advised the Respondent to enter into a stipulation to avoid higher fines if the Respondent elected to proceed with a formal hearing, if convicted. The Respondent did initially dispute the facts but finally entered into a stipulation with FEMC.

FEMC CASE No: 2008045140

DOCUMENT: FBPE Meeting Minutes, August 2009
RESPONDENT: Not Represented by Counsel
PCP: Rebane, Charland and Hylard
CHARGE: Report Falsification

Case Review

Mr. Zaleski was present and sworn in prior to addressing the Board.

Mr. Rimes stated this investigation was predicated on the receipt of a complaint from a homeowner of property located at Lot #5 Carr Lane, Tallahassee, alleging Mr. Zaleski provided soil boring tests. Apparently, after the house was constructed it began to show structural cracking. A subsequent engineer was engaged to provide more soil borings and discovered pipe clay on site. Complainant alleges Mr. Zaleski falsified the soils report and "has reason to believe that the soil borings were never conducted, even though a report was issued and signed by Mr. Zaleski."

The Probable Cause Recommendation was Reprimand; \$2,000.00 administrative fine (\$2,000.00 per count for (1) count); costs of \$1,112.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Subject will be placed on 2 year(s) probation with plan review at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: what steps he plans to take to improve the quality of his practice.

The Settlement Stipulation calls for a Reprimand; \$2,000.00 administrative fine (\$2,000.00 per count for (1) count); costs of \$1,112.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Subject will be placed on 2 year(s) probation with plan review at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: what steps he plans to take to improve the quality of his practice. The second year of PROBATION will be terminated early if, at the sole discretion of the Board Consultant and the Board, it is determined that the initial plan review report was "favorable" (defined in the Stipulation as being free of any material deficiencies).

Mr. Rimes noted members had received a letter from one of the complainants expressing their concern.

Mr. Burke asked Mr. Zaleski to explain how he is going to prevent this from happening again. Mr. Zaleski advised the Board of his primary job which is working for a site contractor in Tallahassee. He performs modifications to plans, as well as densities for FDOT, and he limits this as his area of practice. There are other types of side jobs that he will not do anymore. He had worked for this man for over seven years and has never had a complaint. The superintendent filed the complaint.

Upon motion by Ms. Garcia, seconded by Dr. Panigrahi, the Settlement Stipulation was accepted. The motion passed.

Applicability of the Laws and Rules

In this case, the Respondent was charged with one count of falsification of information. The Respondent elected to enter into stipulation with FEMC.

In the case of false filing, "Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing" constitutes grounds for disciplinary action as stipulated under Section 471.033(1)(e) of the Florida Statutes.

Following penalty recommendations by the probable cause panel, the Respondent elected to enter into a stipulation with FEMC. In this case, the Board concurred with the administrative penalties as part of approving the stipulation and issuing its Final Order.

FEMC CASE No: 2007038075

DOCUMENT: FBPE Meeting Minutes, April 2009
RESPONDENT: Represented by Counsel
PCP: Burke and Seckinger
CHARGE: Delinquent License, Negligence

Case Review

The Respondent was present and sworn in prior to addressing the Board. He was represented by his attorney David Rankin, Esquire.

Mr. Creehan outlined the basis for the complaint. The complaint was initiated by Robert Campbell, Director of Transportation and Land Development for Hillsborough County. The complaint alleged the respondent practiced engineering while his license was delinquent. An Administrative Complaint was filed on November 21, 2007. The Administrative Complaint charged the Respondent with negligence in the FEMC Case No. 2005050647 and practicing on a delinquent license in FEMC Case No. 2007038075.

The Probable Cause Panel Recommendation was:

1. Vacate the part of FEMC Final Order as it pertains to FEMC Case No. 2007038075. (Note: Respondent has disciplinary history under two other FEMC Cases for which Respondent has completed all the terms).
2. Adoption of the proposed Settlement Stipulation which includes a \$5,000.00 administrative fine; costs of \$1,215.00; and an appearance before the Board to explain what the Respondent has done to improve quality and control measures in his practice.

The original PCP Recommendation was: \$10,000.00 administrative fine; costs of \$1,215.00; suspension of license for two years; following suspension. Subject shall serve two years probation with plans review at 6 and 18 months; and an appearance before the Board to explain what his plans for doing business while under suspension are.

Upon motion by Mr. Haylard seconded by Mr. Wallis, the stipulation in FEMC Case No. 2007038075 was adopted and the portion of the FEMC Final Order involving FEMC Case No. 2007038075 is vacated. The motion passed by majority with one dissenting vote.

Applicability of the Laws and Rules

In this case, the Respondent was charged with two counts one of which pertained to practicing on a delinquent license. As stipulated under Section 471.031(1)(a) and (1)(b)(1) of the Florida Statutes:

- (1) A person may not:
 - (a) Practice engineering unless the person is licensed or exempt from licensure under this chapter.

(b)1. Except as provided in subparagraph 2. or subparagraph 3. [of Section 471.031(1)(b)(2),(3)], use the name or title "professional engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an engineer when the person is not licensed under this chapter, including, but not limited to, the following titles: "agricultural engineer," "air-conditioning engineer," "architectural engineer," "building engineer," "chemical engineer," "civil engineer," "control systems engineer," "electrical engineer," "environmental engineer," "fire protection engineer," "industrial engineer," "manufacturing engineer," "mechanical engineer," "metallurgical engineer," "mining engineer," "minerals engineer," "marine engineer," "nuclear engineer," "petroleum engineer," "plumbing engineer," "structural engineer," "transportation engineer," "software engineer," "computer hardware engineer," or "systems engineer."

The Respondent elected to enter into a stipulation that the probable cause panel recommended and the Board approved

FEMC CASE No: 2008035570

DOCUMENT: FBPE Meeting Minutes, June 2010
RESPONDENT: Represented by Counsel
PCP: Rebane, Charland, Halyard
CHARGE: Misconduct

Case Review

The Respondent was present with his attorney, Mr. R. Paul Roecker, Esquire. The Respondent was sworn in before addressing the board.

Mr. Rimes outlines the facts of this case. The charges relate to a violation of Section 471.033(1)(g), F.S., engaging in misconduct in the practice of engineering, Rule 61G15-19.001(6)(j) , and 61G15-29.001(3), affixing seal/signature to plans, reports, certifications not prepared under responsible supervision direction & control.

Probable Cause was found in November 2009 and an AC was authorized. After service, the parties engaged in discussion and negotiations wherein Respondent agreed he had not adequately supervised the preparation and creation of the reports in question. As a result, of the discussion a Settlement Stipulation was entered into on March 24, 2010.

The stipulation calls for a Fine \$5000.00 for Count I, \$2000.00 for Count II; Fine of \$1486.00; Reprimanded; 2 year(s) Probation with plan review at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: what procedures and quality control measures he plans to implement to improve his work product.

The Respondent addressed the board as part of the requirement of considering the stipulation. He responded to several questions posed by the Board on his present practice.

Upon motion by Dr. Earle seconded by Ms. Garcia, the stipulation was adopted. The motion passed.

Applicability of the Laws and Rules

In this case, the Respondent was charged with two counts of misconduct. Misconduct, as stipulated in Section 61G15-9.001(6) includes, but is not be limited to:

- (a) Expressing an opinion publicly on an engineering subject without being informed as to the facts relating thereto and being competent to form a sound opinion thereupon;
- (b) Being untruthful, deceptive or misleading in any professional report, statement or testimony whether or not under oath or omitting relevant and pertinent information from such report, statement or testimony when the result of such omission would or reasonably could lead to a fallacious conclusion on the part of the client, employer or the general public;

(c) Performing an engineering assignment when not qualified by training or experience in the practice area involved;

1. All professional engineer asbestos consultants are subject to the provisions of Sections 455.301 - .309, F.S., Chapter 471, F.S., and Rule 61G15-19, F.A.C., and shall be disciplined as provided therein.

2. The approval of any professional engineer as a "special inspector" under the provisions of Chapter 553, F.S., does not constitute acceptance by the Board that any such professional engineer is in fact qualified by training or experience to perform the duties of a "special inspector" by virtue of training or experience. Any such professional engineer must still be qualified by training or experience to perform such duties and failure to be so qualified could result in discipline under this chapter or Chapter 471, F.S.;

(d) Affixing a signature or seal to any engineering plan or document in a subject matter over which a professional engineer lacks competence because of inadequate training or experience;

(e) Offering directly or indirectly any bribe or commission or tendering any gift to obtain selection or preferment for engineering employment with the exception of the payment of the usual commission for securing salaried positions through licensed employment agencies;

(f) Becoming involved in a conflict of interest with an employer or client, without the knowledge and approval of the client or employer, but if unavoidable a professional engineer shall immediately take the following actions:

1. Disclose in writing to his employer or client the full circumstances as to a possible conflict of interest; and

2. Assure in writing that the conflict will in no manner influence the professional engineer's judgment or the quality of his services to his employer or client; and

3. Promptly inform his client or employer in writing of any business association, interest or circumstances which may be influencing his judgment or the quality of his services to his client or employer;

(g) Soliciting or accepting financial or other valuable considerations from material or equipment suppliers for specifying their products without the written consent to the engineer's employer or client;

(h) Soliciting or accepting gratuities directly or indirectly from contractors, their agents or other parties dealing with the professional engineer's client or employer in connection with work for which the professional engineer is responsible without the written consent of the engineer's employer or client;

(i) Use by a professional engineer of his engineering expertise and/or his professional engineering status to commit a felony;

(j) Affixing his seal and/or signature to plans, specifications, drawings or other documents required to be sealed pursuant to Section 471.025(1), F.S., when such document has not been personally prepared by the engineer or prepared under his responsible supervision, direction and control;

(k) A professional engineer shall not knowingly associate with or permit the use of his name or firm name in a business venture by any person or firm which he knows or has reason to believe is engaging in business or professional practices of a fraudulent or dishonest nature;

(l) If his engineering judgment is overruled by an unqualified lay authority with the results that the public health and safety is threatened, failure by a professional engineer to inform his employer, responsible supervision and the responsible public authority of the possible circumstances;

(m) If a professional engineer has knowledge or reason to believe that any person or firm is guilty of violating any of the provisions of Chapter 471, F.S., or any of these rules of professional conduct, failure to immediately present this information to FEMC;

(n) Violation of any law of the State of Florida directly regulating the practice of engineering;

- (o) Failure on the part of any professional engineer or certificate holder to obey the terms of a Final Order imposing discipline upon said professional engineer or certificate holder;
- (p) Making any statement, criticism or argument on engineering matters which is inspired or paid for by interested parties, unless the professional engineer specifically identifies the interested parties on whose behalf he is speaking and reveals any interest he or the interested parties have in such matters;
- (q) Sealing and signing all documents for an entire engineering project, unless each design segment is signed and sealed by the professional engineer in responsible charge of the preparation of that design segment;
- (r) Revealing facts, data or information obtained in a professional capacity without the prior consent of the professional engineer's client or employer except as authorized or required by law."

Following penalty recommendations by the probable cause panel, the Respondent elected to enter into a stipulation with FEMC. In this case, the Board concurred with the PCP's administrative penalties as part of approving the stipulation and issuing its Final Order.

Appendix A

Range of Penalties (61G15-19.004)

VIOLATIONS	MINIMUM PENALTY	MAXIMUM PENALTY
<p>(a) Violating any provision of Section 455.227(1), 471.025 or 471.031, F.S., or any other provision of Chapter 471, F.S., or rule of the Board or Department</p> <p>(Sections 471.033(1)(a), 455.227(1)(b), (q), F.S.)</p>	Reprimand and \$1,000 fine	One (1) year suspension, two (2) years probation and \$5,000 fine
<p>1. Failure to sign, seal or date documents</p> <p>(Section 471.025(1), F.S.)</p>	Reprimand	Reprimand and one (1) year probation
<p>2. Sealing any document after license has expired or been revoked or suspended, or failure to surrender seal if the license has been revoked or suspended</p> <p>(Section 471.025(2), F.S.)</p>	<p>Suspended license: Revocation and \$1,000 fine</p> <p>Revoked license: Referral to State's Attorney's office</p>	
<p>3. Signing or sealing any document that depicts work the licensee is not licensed to perform or which is beyond his or her profession or specialty therein or practicing or offering to practice beyond the scope permitted by law or accepting and performing responsibilities the licensee is not competent to perform</p> <p>(Sections 471.025(3), 455.227(1)(o), F.S., paragraphs 61G15-19.001(6)(c), (d), F.A.C.)</p>	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation
<p>4. Firm practicing without certificate of authorization</p> <p>(Section 471.023, F.S., subsection 61G15-19.001(3), F.A.C.)</p>	Reprimand	Revocation
<p>5. Failure to complete continuing education</p>	Suspend until licensee demonstrates compliance	Revocation

6. Practicing engineering without a license or using a name or title tending to indicate that such person holds an active license as an engineer (Section 471.031(1)(a), (b), F.S.)	\$1,000 fine per count	\$5,000 fine per count
7. Presenting as his or her own the license of another (Section 471.031(1)(c), F.S.)	\$1,000 fine per count	\$5,000 per count and revocation
8. Giving false or forged evidence to the Board or concealing information relative to violations of this chapter (Section 471.031(1)(d), (g), F.S.)	\$1,000 fine per count	\$5,000 per count and revocation
9. Employing unlicensed persons to practice engineering or aiding, assisting, procuring, employing unlicensed practice or practice contrary to Chapter 455 or 471, F.S. (Sections 471.031(1)(f), 455.227(1)(j), F.S.)	\$1,000 fine per count and reprimand	\$5,000 per count and revocation
10. Having been found liable for knowingly filing a false complaint against another licensee (Section 455.227(1)(g), F.S.)	\$1,000 fine per count and reprimand	\$5,000 fine per count and revocation
11. Failing to report a person in violation of Chapter 455, Chapter 471, F.S., or the rules of the Board or the Department (Section 455.227(1)(i), F.S.)	Reprimand	Reprimand, \$5,000 per count and suspension for one (1) year
12. Failing to perform any statutory or legal obligation (Section 455.227(1)(k), F.S.)	Reprimand	Revocation
13. Exercising influence on a client for financial gain (Section 455.227(1)(n), F.S.)	Reprimand	Revocation
14. Improper delegation of professional responsibilities (Section 455.227(1)(p), F.S.)	\$1,000 fine per count and probation for one (1) year	Revocation
15. Improperly interfering with an investigation or inspection or disciplinary proceeding (Section 455.227(1)(r), F.S.)	\$1,000 fine per count and probation for one (1) year	Revocation

<p>(b) Attempting to procure a license by bribery, fraudulent misrepresentation, or error of the Board or Department (Sections 471.033(1)(b), 455.227(1)(h), F.S.)</p>	<p>Revocation and \$1,000 fine if licensed; if not licensed, denial of license and referral to State Attorney</p>	
<p>(c) Having a license to practice engineering acted against or denied by another jurisdiction (Sections 471.033(1)(c), 455.227(1)(f), F.S.)</p>	<p>Same penalty as imposed in other jurisdiction or as close as possible to penalties set forth in Florida Statutes</p>	
<p>(d)1. Being convicted or found guilty of, or entering a plea of nolo contendere to a crime which relates to the practice or ability to practice (Sections 471.033(1)(d), 455.227(1)(c), F.S.)</p>	<p>Misdemeanor: reprimand and one (1) year probation Felony: Revocation and \$1,000 fine</p>	<p>Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation</p>
<p>2. Conviction of crime related to building code inspection or plans examination (paragraph 61G15-19.001(7)(a), F.A.C.)</p>	<p>Misdemeanor: reprimand and one (1) year probation Felony: Revocation and \$5,000 fine</p>	<p>Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation</p>
<p>(e) Knowingly making or filing a false report or record, failing to file a report or record required by law, impeding or obstructing such filing (Section 471.033(1)(e), F.S., paragraph 61G15-19.001(7)(c), F.A.C., Section 455.227(1)(l), F.S.)</p>	<p>One (1) year suspension, two (2) years probation, \$1,000 fine</p>	<p>Revocation and \$5,000 fine</p>
<p>(f) Fraudulent, false, deceptive or misleading advertising (Section 471.033(1)(f), F.S., subsection 61G15-19.001(2), F.A.C.)</p>	<p>Reprimand</p>	<p>Reprimand, one (1) year probation and \$5,000 fine</p>
<p>(g) Fraud, deceit, negligence, incompetence or misconduct (Sections 471.033(1)(g), 455.227(1)(a), (m), F.S.)</p>		
<p>1. Fraud or deceit</p>	<p>Reprimand, two (2) years probation and \$1,000 fine</p>	<p>\$5,000 fine and revocation</p>
<p>2.a. Negligence (subsection 61G15-19.001(4), F.A.C.)</p>	<p>Reprimand, two (2) years probation and \$1,000 fine</p>	<p>Reprimand, \$5,000 fine, five (5) year suspension and ten (10) years probation</p>

b. As a special inspector	Reprimand, two (2) years probation and \$1,000 fine	Reprimand, \$5,000 fine, five (5) year suspension and ten (10) years probation or revocation
3. Incompetence (subsection 61G15-19.001(5), F.A.C.)	Suspension until ability to practice proved followed by probation	
4. Misconduct (subsection 61G15-19.001(6), F.A.C.)	\$1,000.00 fine per count and reprimand	Revocation
a. Expressing an opinion publicly on an engineering subject without being informed as to the facts and being competent to form a sound opinion (paragraph 61G15-19.001(6)(a), F.A.C.)	Reprimand and \$1,000 fine per count	Revocation
b. Being untruthful, deceptive or misleading in any professional report, statement or testimony or omitting relevant and pertinent information from such report, statement or testimony when the result or such omission would or reasonably could lead to a fallacious conclusion (paragraph 61G15-19.001(6)(b), F.A.C.)	Reprimand and \$1,000 fine per count	Revocation
c. Offering directly or indirectly any bribe or commission or tendering any gift to obtain selection or preferment for engineering employment other than the payment of the usual commission for securing salaried positions through licensed employment agencies (paragraph 61G15-19.001(6)(e), F.A.C.)	\$5,000 fine per count and suspension for five (5) years	Revocation
d. Soliciting or accepting gratuities without client knowledge (paragraphs 61G15-19.001(6)(g), (h), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, one (1) year suspension, two (2) years probation and \$5,000 fine
e. Failure to preserve client's confidence (paragraph 61G15-19.001(6)(r), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, one (1) year suspension, two (2) years probation (if pecuniary benefit accrues to engineer)
f. Professional judgment overruled by unqualified person (paragraph 61G15-19.001(6)(i), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, one (1) year suspension, two (2) years probation and \$5,000 fine

g. Use of name/firm in fraudulent venture (paragraph 61G15-19.001(6)(k), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation
h. Undisclosed conflict of interest (paragraphs 61G15-19.001(6)(f), (p), F.A.C.)	Reprimand, \$1,000 fine and two (2) years probation	Revocation and \$5,000 fine
(h) Violating any provision of Chapter 455, F.S. (Sections 471.033(1)(h), 455.227(1)(q), F.S.)	Reprimand and \$1,000 fine per count	\$5,000 fine per count and revocation
(i) Practicing on a revoked, suspended, inactive or delinquent license (Sections 471.033(1)(i), 471.031(1)(e), F.S.)		
1. Delinquent license	Reprimand	Revocation
2. Inactive license	Fine based on length of time in practice while inactive; \$100/month or \$1,000 maximum, renewal of license or cease practice	
3. Suspended license	Revocation and \$1,000 fine	
4. Revoked license	Referral to State Attorney	
(j) Affixing or permitting to be affixed his or her seal, name, or digital signature to any documents that were not prepared by him or her or under his or her responsible supervision, direction or control (Section 471.033(1)(j), F.S., paragraphs 61G15-19.001(6)(j), (q), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation
(k) Violating any order of the Board or department (Section 471.033(1)(k), F.S.,	Suspension and \$1,000 fine	Revocation and \$5,000 fine
(l) Aiding, assisting, procuring, employing unlicensed practice or practice contrary to Chapter 455 or 471, F.S. (Section 455.227(1)(j), F.S.)	Reprimand and \$1,000 fine per count	\$5,000 fine per count and revocation

Appendix B

Answers to Study Questions

Study Question 1:

List the regulations that govern the practice of engineering in the state of Florida:

1. Florida Statutes, Chapter 455, Department of Business and Professional Regulation
2. Florida Statutes, Chapter 471, Engineering
3. Florida Administrative Code, 61G15, Florida Board of Professional Engineers

Study Question 2:

Who is the FEMC and what are its functions?

FEMC stands for Florida Engineers Management Corporation. It is a non-profit, single purpose corporation that operates through a contract with the Department of Business and Professional Regulation.

FEMC provides the Florida Board of Professional Engineers with administrative, investigative and prosecutorial services.

Study Question 3:

What are the engineering decisions that must be made by the Engineer of Record?

1. Selecting engineering alternatives to be investigated and the comparison of alternatives for engineering works.
2. Selecting or developing design standards or methods, and materials to be used.
3. Selecting or developing techniques or methods of testing to be used in evaluating materials or completed works, either new or existing.
4. Developing and controlling operation and maintenance procedures.

Study Question 4:

What type of electronic signature by the Engineer of Record is acceptable to the Board?

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

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

Study Question 5:

Name some of the components of a metal building system:

A metal building system is defined as an integrated set of components and assemblies that are specifically designed to form a complete structural system. This typically includes primary framing comprised of constant depth or web-tapered structural steel frames, secondary members that are cold-formed steel or steel joists, a metal panel roof system and exterior wall cladding.

Study Question 6:

Do the “Fire Protection System Layout Documents” require the seal of a Florida registered engineer?

No. Fire Protection System Layout Documents are based upon engineering direction provided in the Fire Protection System Engineering Documents and require no additional engineering input. These documents do not require the seal of a Florida registered engineer.

Study Question 7:

What NFPA procedures should be followed when performing calculations for fire alarm and detection system design?

In the event that the Engineer of Record elects to specify specific equipment and to show the required wiring, battery and voltage drop (circuit analysis) calculations shall be completed. The calculations shall be completed using the equipment manufacture's data and applicable NFPA 72 procedures.

Study Question 8:

Is distance learning allowed by the Board to satisfy continuing education requirements for professional engineers?

Yes. A board, or the department when there is no board, shall approve distance learning courses as an alternative to classroom courses to satisfy continuing education requirements provided for in part VIII, part XV, or part XVI of chapter 468 or part I or part II of chapter 475 and may not require centralized examinations for completion of continuing education requirements for the professions licensed under part VIII, part XV, or part XVI of chapter 468 or part I or part II of chapter 475.

Study Question 9:

Within how many days must a licensee report to the Board his or her conviction?

A licensee must report a conviction, finding of guilt, plea, or adjudication entered within 30 days.

Study Question 10:

Does a licensee have to take continuing education courses when involved in the design of facilities or systems covered by the Florida Building Code?

Yes. All licensees actively participating in the design of engineering works or systems in connection with buildings, structures, or facilities and systems covered by the Florida Building Code shall take continuing education courses and submit proof to the board, at such times and in such manner as established by the board by rule, that the licensee has completed any specialized or advanced courses on any portion of the Florida Building Code applicable to the licensee's area of practice.

Study Question 11:

Who is PCP and what is its role?

The probable cause panel (PCP) consists of either three active Board members or two active Board members and one former Board member who are appointed as a standing probable cause committee at the first Board meeting of each calendar year for one year term.

The primary function of the PCP is to review the investigative report provided by the Board to determine if probable cause is found. If found, the PCP recommends the appropriate penalties to the Board. If not found, the PCP may issue a letter of guidance.

Study Question 12:

List the three methods a subject may address a violation:

1. Attend a formal hearing before an administrative law judge where the subject can raise any disputed issues of material fact.
2. Attend an informal hearing where disputed issues of material fact may not be raised by any party.
3. Enter into a stipulation issued by the Board.

Study Question 13:

Who is responsible for issuing the Final Order including the imposition of disciplinary penalties?

The Florida Board of Professional Engineers makes all final decisions pertaining to any disciplinary proceedings and penalties as part of its Final Order.

Study Question 14:

What constitutes a minor violation?

A violation is a minor violation if it does not demonstrate a serious inability to practice the profession, result in economic or physical harm to a person, or adversely affect the public health, safety, or welfare or create a significant threat of such harm.

Study Question 15:

List the three methods of disposing violations:

1. Notice of Non-Compliance
2. Mediation
3. Citation

Appendix C

References

Florida Administrative Code: 61G15 – Board of Professional Engineers

<http://www.fbpe.org/userfiles/file/61G15%20as%20of%2011%2016%2010.pdf>

The 2010 Florida Statutes: Chapter 455 - Business and Professional Regulation: General Provisions

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0455/0455.html

The 2010 Florida Statutes: Chapter 471 - Engineering

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0471/0471.html

Florida Administrative Weekly – Rule Versions That Became Effective

https://www.flrules.org/notice/QuickResult.asp?PO=Stat_FAC_All&P1=0&P2=90

Florida Administrative Weekly – Section XIV: List of Rules Affected

<https://www.flrules.org/notice/QuickSection14.asp?PO=All&P1=0>

Florida Administrative Weekly – FAW Notices Adopted and Published

<https://www.flrules.org/notice/resultAdvance.asp?string=a&orgid=61&orid=267&keyword=&ChkFAW=on&sid=&iid=&date1=06%2F03%2F2000&date2=06%2F03%2F2009&ChkFAC=on&date3=06%2F03%2F2000&date4=08%2F03%2F2009&submit=++Search>

Agenda and Minutes – December 2010 (Case No. 200900306)

<http://www.fbpe.org/userfiles/file/Dec%201-2%202010%20FBPE%20Board%20Meeting%20Minutes.pdf>

Agenda and Minutes – June 2010 (Case No. 2008035570)

<http://www.fbpe.org/userfiles/file/Final%20Minutes%20from%20June%202010%20as%20of%207%2016%2010%20at%2010am.pdf>

Agenda and Minutes – April 2010 (Case No. 2009040973)

<http://www.fbpe.org/userfiles/file/April%202010%20FBPE%20Minutes.pdf>

Agenda and Minutes – August 2009 (Case No. 2008045140)

<http://www.fbpe.org/userfiles/file/Final%20Minutes%20of%20the%20August%202009%20FBPE%20Board%20Meeting.pdf>

Agenda and Minutes – April 2009 (Case No. 2007038075)

<http://www.fbpe.org/userfiles/file/April%202009%20FBPE%20Minutes.pdf>

Appendix D

Course Inquiry Form

For any questions or comments about this course, please complete this form and submit it:

To: **Gilbert Gedeon (Course Author)**
By Fax: **1-877-322-4774**
By Email: gilbert.gedeon@cedengineering.com
By Mail: **Continuing Education and Development, Inc.**
9 Greyridge Farm Court
Stony Point, NY 10970

From: _____

Phone No: _____

Fax No: _____

Email: _____

Date: _____

Subject: **Florida Laws and Rules for Professional Engineers (FL4-002)**

Inquiry: _____

CED will respond to your inquiry within 48 business hours.

If you wish to reach us phone for any urgent inquiry, please contact us at 1-877-322-5800.