

250 CMR: BOARD OF REGISTRATION OF PROFESSIONAL
ENGINEERS AND LAND SURVEYORS

DRAFT FOR DISCUSSION PURPOSES ONLY

250 CMR 2.00: GENERAL PROVISIONS, BOARD PROCEDURES AND DEFINITIONS

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2.01: Authority

250 CMR is an exercise of the police power vested in the Board by virtue of the following General Laws: M.G.L. c. 13, §§ 45 and 46; c. 112, §§ 81D through 81T; c. 143, § 54A, St. 1970, c. 707, §§ 1 through 12; c. 282; c. 707, §§ 13 through 15, St. 1971, c. 1099; St. 1972 c. 684; St. 1975, c. 545 and 588; St. 1979, c. 897.

2.02: Purpose

The purpose of 250 CMR is to protect the public health, safety, and welfare by establishing requirements and procedures for registration of Professional Engineers and Professional Land Surveyors, prescribing standards of professional conduct to be followed by such engineers and land surveyors, and assure the proper performance of the duties of the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors.

2.03: Applicability

All persons registered under the provisions of M.G.L. c. 112, §§ 81D through 81T shall have knowledge of and comply with the provisions of 250 CMR and all laws governing the Practice of Engineering or Practice of Land Surveying.

Where 250 CMR applies, no other agency may waive or otherwise modify its provisions except to the extent provided by law.

2.04: The Board of Registration

(1) Organization. The organization of the Board is governed by the provisions of M.G.L. c. 13, § 45.

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(2) Board Proceedings.

(a) Meetings.

1. The Board shall hold at least two regular meetings each year, and may hold special meetings at such times and places as the Board may decide.
2. Notice of regular and special meeting dates, times and places must be given to the extent required by M.G.L. c 30A, §§ 18 through 25.
3. All meetings of the Board are open to the public to the extent required by M.G.L. c. 30A, §§ 18 through 25.

(b) Quorum. At all meetings of the Board, the number of board members needed to constitute a quorum shall be determined by applicable law.

(c) Voting. All members of the Board are entitled to vote and to make or to second motions. A majority vote of those present is required to pass a motion. The chairman shall vote as a member of the Board.

2.05: Petitions for Adoption, Amendment or Repeal of Regulations

(1) Any interested person or his or her attorney may at any time petition the Board to adopt, amend, or repeal any regulation. The petition shall be addressed to the Board and sent by mail or delivered in person during normal business hours. All petitions shall be signed by the petitioner or his or her attorney, contain his or her address or the address of his or her attorney, and set forth clearly and concisely the text of the proposed regulation. The petition may be accompanied by any supporting data, views or arguments.

(2) Upon receipt of a petition for the adoption, amendment or repeal of a regulation or upon written recommendation by a member of the Board that a regulation be adopted, amended or repealed, the Board shall consider the petition or recommendation, thereupon, determine whether to schedule the petition or recommendation for further proceedings in accordance with M.G.L. c. 30A, §§ 2 through 6. If the regulation has been presented to the Board by petition, the Board shall notify the petitioner of the Board's action.

(3) During the meeting when the petition or recommendation is considered, the Board may, but shall not be required to, entertain comments or questions from members of the public in attendance. The chairman or other presiding officer may at any time terminate participation by the public.

(4) The Board shall review its regulations on a regular basis.

2.06: Emergency Regulations

If the Board finds that the immediate adoption, amendment or repeal of a regulation is necessary for the public health, safety or general welfare, and that observance of requirements of notice and public hearing would be contrary to the public interest, the Board may dispense with such requirements and adopt the regulation as an emergency regulation in accordance with M.G.L. c. 30A, § 2.

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2.07: Advisory Rulings

Any interested person or his or her attorney may at any time request an Advisory Ruling with respect to the applicability to any person, property or factual situation of any statute or regulation enforced or administered by the Board.

The request shall be submitted in writing to the Board. All requests shall be signed by the person making it or their attorney, contain their address or the address of their attorney, and state clearly and concisely the substance or nature of the request. The request may be accompanied by any supporting data, views or arguments.

2.08: Policies

The Board may draft and adopt policies as an internal management tool for formulating decisions that relate to the Practice of Engineering and Practice of Land Surveying. As such, these policies do not have the full force and effect of law, but rather provide guidance for Registrants.

2.09: Definitions

For the purposes of 250 CMR, the following terms shall have the specified meanings:

(1) General Definitions.

ABET is the acronym meaning Accreditation Board for Engineering and Technology.

Accreditation is the process used to evaluate a college's engineering or technology program for compliance with minimum standards.

Advisory Ruling is a ruling of the Board issued under the process by which any interested person or their attorney can request an opinion by the Board.

Application Classification is the set of requirements for registration as an engineer or land surveyor in the Commonwealth of Massachusetts per M.G.L. c. 112, § 81J.

Board is the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors.

Business Entity is any sole proprietorship, partnership, corporation, association, limited liability company, limited liability partnership, or other organization or entity, whether for-profit or not-for-profit, which provides or offers to provide engineering or land surveying services, either exclusively or in combination with goods or other types of services.

Certificate of Registration means the biennial certificate issued by the Board under M.G.L. c. 112, § 81M to a person who has met the requirements to practice as a Professional

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Engineer or Professional Land Surveyor as set forth in M.G.L. c. 112, §§ 81D through 81T, and is prima facie evidence that the person named therein is entitled to all the rights and privileges of a Professional Engineer or Professional Land Surveyor while the certificate is in force. Certificate of Registration is used interchangeably with the words License and Registration.

CMR is the acronym meaning *Code of Massachusetts Regulations*.

Comity Registration is a process whereby out-of-state registrants/licensees are considered for registration in Massachusetts.

Direct Charge and Supervision defined in 250 CMR 5.04.

Direct Responsibility, Checking and Supervision cited by M.G.L. c. 112, § 81R(d) is synonymous with Direct Charge and Supervision.

Direct Supervision is synonymous with Direct Charge and Supervision.

Division is the Division of Professional Licensure.

Equivalency Appraisal is the process of evaluating education from non-ABET approved college programs, such as a foreign degree or non-ABET engineering degrees, for compliance with the Board's educational requirements.

Fixed-works are those structures and their attachments which are generally considered to be fixed to the earth's surface.

Immediate and Responsible Direction as cited by M.G.L. c. 112, § 81P(c) is a component of Direct Charge and Supervision as described in 250 CMR 5.04.

Instrument of Service is any document or medium memorializing the professional service or creative work of engineering or land surveying involving the special education, training, and experience of the nature required for registration as a Professional Engineer or Professional Land Surveyor.

Jurisdiction is a state or territory of the United States that licenses engineers or licenses land surveyors via NCEES examination.

License see definition of Certificate of Registration.

M.G.L. is an acronym for Massachusetts General Law(s).

NCEES is the acronym for National Council of Examiners for Engineering and Surveying.

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NCEES Record is a centralized file certified by the NCEES of an individual's qualifications related to registration matters, which can be electronically transmitted to Jurisdictions where Comity Registration is sought.

Order to Show Cause is a written mandate that a party respond to formal charges and give reasons, legal and/or factual (show cause), why a particular action should not be taken under 801 CMR 1.01: *Formal Rules*.

Reference Questionnaire is the form established by the Board used to substantiate an applicant's Work Experience by persons familiar with the applicant's work and character.

Registrant is a person who has, to the satisfaction of the Board, met the minimum requirements to practice engineering or land surveying in the Commonwealth of Massachusetts, who has been added to the Commonwealth's roster of Professional Engineers or Professional Land Surveyors and who holds a current Certificate of Registration. Registrant is used interchangeably with the word Licensee.

Registrant-in-charge is the Registrant required for a Business Entity in 250 CMR 5.05: *Business Entities* and M.G.L. c. 112, § 81R(f).

Resident is one who maintains his or her legal domicile in the Commonwealth of Massachusetts at the date that application is made for registration.

Responsible Charge is experience of a grade and character associated with significant engineering or land surveying endeavors that demonstrates the necessary skills and judgment to perform work of a professional nature and direct others in such endeavors, including the application of standards and applicable laws.

Signature is either the traditional handwritten Signature which is visible on the face of the document or an encrypted digital Signature that complies with 250 CMR 5.03(11).

Temporary Permit is the written permission granted to practice in the Commonwealth of Massachusetts on a temporary basis.

Work Experience is one of the statutory requirements for registration imposed by the Board. It must meet certain minimum standards, regarding duration, quality, supervision, and Responsible Charge as set forth in 250 CMR 3.00: *The Registration Process*.

Work Product *see* Instrument of Service.

(2) Engineering Definitions.

Branch is the discipline or area of expertise within professional engineering practice.

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EIT is the acronym for Engineer-in-training.

Engineer-in-training means a person who has qualified for, taken, and passed the NCEES FE Exam examination and who is certified by the Board as meeting the requirements of M.G.L. c. 112, § 81J(3)(a) or (b).

FE Exam (also known as the Fundamentals of Engineering exam) is the first of two NCEES exams used to test one's basic qualifications for engineering registration, usually taken during or shortly after college.

Licensed Branch is the Branch of engineering identified on a Professional Engineer's Certificate of Registration and listed on the Board's registration roster.

PE is the acronym for Professional Engineer.

PE Exam (also known as the Principles and Practice of Engineering exam) is the second of two NCEES exams used to test one's qualifications for engineering registration and is taken after the completion of one's minimum required formal education and after a minimum number of years of experience. This exam is Branch specific and tests one's knowledge based upon both education and experience.

Practice of Engineering see M.G.L. c. 112, § 81D: *Definitions*.

Professional Engineer means a person who has been duly registered as an Engineer by the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors and who holds a current License to practice.

(3) Land Surveying Definitions.

Boundary is a legal demarcation between real property title or rights and includes but is not limited to proposed or existing property lines, Regulatory Lines, lease lines, easement lines, Jurisdictional Lines.

Calibration is the process of comparing the magnitude of measurements made with a device to that of measurements of known (standardized) magnitudes of such that corrections can be made for the device's systematic errors and that the device will consistently produce reliable results over a range of measuring conditions..

Control is the network of points and lines that form the framework for determining the relationship between indirectly observed points comprising the basis of a survey.

Evidence consists of almost any object, action, or verbal statement, either oral or written, used to define/retrace a Boundary.

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FS Exam (also known as the Fundamentals of Surveying exam) is the first of two NCEES exams used to test one's qualifications for surveying registration, usually taken during or shortly after college.

Jurisdictional Lines are lines that define political divisions such as state, county or town lines.

Jurisprudence Exam is the portion of the Principles and Practice examination prepared and corrected by the Board that tests a land surveying applicant's knowledge of Massachusetts specific laws, rules and regulations.

Laws of Evidence is a collection of the general rules and principles regulating the admissibility, relevancy, weight and sufficiency of Evidence in legal proceedings as established either by statutory law or by case law, as they pertain to the practice of land surveying. In the practice of land surveying, Rules of Evidence and Boundary Law are often used synonymously with Laws of Evidence.

Operative Document is the source document that has authority under the Laws of Evidence to establish a line, e.g., senior deed, court decision, legislative act.

Original Lines are lines created by the Operative Document affecting real property.

Outbounds are the outermost Boundary lines or perimeter Boundary lines.

PLS is the acronym for Professional Land Surveyor.

Practice of Land Surveying see M.G.L. c. 112, § 81D: *Definitions*.

Professional Land Surveyor shall mean a person who has been duly registered as a Land Surveyor by the Massachusetts Board of Registration for Professional Engineers and Professional Land Surveyors and who holds a current License to practice.

PS Exam (also known as the Principles and Practice of Surveying exam) is the second of two exams used to test one's qualifications for surveying registration, comprised of an NCEES exam and a Board prepared jurisprudence exam, and is taken after the completion of one's minimum required formal education and after a minimum number of years of experience.

Regulatory Lines are lines defined by governmental action affecting real property rights.

SIT is the acronym for Surveyor-in-training.

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Surveyor-in-training means a person who has qualified for, taken and passed, the NCEES FS Exam, and is certified by the Board as meeting the requirements of the M.G.L. c. 112, §§ 81J(3)(c) or (d).

2.10: Severability

If any section of 250 CMR ~~2.00~~—promulgated under the provisions of the applicable General Laws governing the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors are found by the courts to be invalid for any reason, it is the intention of the Board that all of the remaining sections of 250 CMR ~~2.00~~ shall continue in full force and effect. Each regulation, and/or any portion thereof, is declared to be severable.

REGULATORY AUTHORITY

250 CMR 2.00: M.G.L. c. 112, § 81E; c. 13, § 45.