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Russell Hyde, PE
2728 Mount Royal Circle
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General Question: Does preparation of the original design documents for Emergency Responder Communication Enhancement Systems constitute the practice of engineering under Alabama law?

Dear Mr. Hyde:

This Declaratory Ruling of the Board of Licensure for Professional Engineers and Land Surveyors is issued in response to the five questions in your petition.

QUESTION 1

When an Emergency Responder Communication Enhancement System for a building requires technical design judgments involving radio-frequency coverage, system gain/loss, donor antenna configuration, amplification, distributed antenna layout, interference control, battery standby, survivability, fire alarm supervision, grounding/bonding, code compliance, and coordination with public-safety radio requirements, does preparation of the original design documents for that system constitute the practice of engineering under Alabama law?

FACTS, LAW, AND ANALYSIS

The Code of Alabama 1975 Section 34-11-1(13) (a1) and (b) states the following:

"a. Any professional service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work that includes any one or more of the following:

"1. Consultation, investigation, evaluation, planning, design and design coordination, or commissioning of engineering works, products, and systems.

"b. Any service or work described in paragraph a., either public or private, that is made in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, communications systems, transportation systems, industrial or consumer products, or equipment of a control system; or is of a mechanical, electrical, hydraulic, pneumatic, chemical, environmental, or thermal nature, insofar as the service or work involves safeguarding health, life, safety, welfare, and property. The term includes other professional services as may be necessary to the planning, progress, and completion of any engineering services.

Alabama Code § 34-11-14(2) 34-11-14(2) states: “The work of an engineer intern or land surveyor intern, employee, or a subordinate of any person holding a certificate of licensure under this chapter, or any employee of a person practicing lawfully under paragraph b of subdivision (1) of Section 34-11-4, 4 provided the work does not include final engineering or land surveying designs or decisions and is done under the responsible charge of and verified by an individual holding a certificate of licensure under this chapter.”

CONCLUSION

The stated activities require engineering education, training, experience, or professional engineering judgement. The preparation of project-specific ERCES design documents concerning radio frequency coverage, gain/loss, amplification, antenna configuration and distribution, interference, electrical power, standby power, survivability, supervision, grounding/bonding, code compliance, or integration with other building systems constitutes engineering design of a communications/electrical system affecting health, life, safety, welfare, and property within the meaning of Ala. Code § 34-11-1(13)

QUESTION 2

If the answer to Question 1 is yes, must those ERCES engineering design documents be prepared by, or under the responsible charge of, a professional engineer licensed in Alabama and sealed in accordance with Alabama law and Board rules?

FACTS, LAW, AND ANALYSIS

Alabama Code § 34-11-14(2) 34-11-14(2) states: “The work of an engineer intern or land surveyor intern, employee, or a subordinate of any person holding a certificate of licensure under this chapter, or any employee of a person practicing lawfully under paragraph b of subdivision (1) of Section 34-11-4, 4 provided the work does not include final engineering or land surveying designs or decisions and is done under the responsible charge of and verified by an individual holding a certificate of licensure under this chapter.”

CONCLUSION

Under Alabama Code § 34-11-2(b), engineering design of such a system must be conducted under the responsible charge of a licensed professional engineer. Engineering design documents issued for the project must bear the seal, signature, and date of the Alabama-licensed professional engineer responsible for the engineering work as required by State of Alabama Board of Licensure for Professional Engineers and Land Surveyors Administrative Code r. 330-X-11-.03.

QUESTION 3

May a NICET-certified person who is not an Alabama-licensed professional engineer independently prepare and submit original ERCES design documents for a building as a substitute for engineering design documents where those documents require engineering judgment and are used for permitting, construction, or code compliance?

FACTS, LAW, AND ANALYSIS

Alabama Code § 34-11-14(2) 34-11-14(2) states: “The work of an engineer intern or land surveyor intern, employee, or a subordinate of any person holding a certificate of licensure under this chapter, or any employee of a person practicing lawfully under paragraph b of subdivision (1) of Section 34-11-4, 4 provided the work does not include final engineering or land surveying designs or decisions

and is done under the responsible charge of and verified by an individual holding a certificate of licensure under this chapter.”

CONCLUSION

NICET certification does not constitute Alabama licensure as a professional engineer and does not create an exemption from Chapter 11. A NICET-certified person who is not an Alabama-licensed professional engineer may not independently assume responsibility for engineering design or final engineering decisions requiring professional engineering judgment. Such a person may perform appropriate subordinate or technical work under the responsible charge of a licensed professional engineer as permitted by Alabama Code § 34-11-14(2).

QUESTION 4

May a NICET-certified person properly prepare ERCES shop drawings, equipment submittals, installation drawings, calculations, grid-test documentation, commissioning documentation, and as-built drawings when such documents are based upon engineering design documents prepared under the responsible charge of an Alabama-licensed professional engineer?

FACTS, LAW, AND ANALYSIS

Alabama Code § 34-11-14(2) 34-11-14(2) states: “The work of an engineer intern or land surveyor intern, employee, or a subordinate of any person holding a certificate of licensure under this chapter, or any employee of a person practicing lawfully under paragraph b of subdivision (1) of Section 34-11-4, 4 provided the work does not include final engineering or land surveying designs or decisions and is done under the responsible charge of and verified by an individual holding a certificate of licensure under this chapter.”

CONCLUSION

A NICET-certified person or other qualified technician may prepare shop drawings, equipment submittals, installation drawings, calculations, test records, and as-built documentation when those activities implement, document, detail, or verify an engineering design prepared under the responsible charge of an Alabama-licensed professional engineer and do not transfer final engineering design decisions to the unlicensed person. If a purported "shop drawing," calculation, submittal, or other document instead establishes or materially modifies the engineering design through the exercise of independent engineering judgment, that portion of the work remains engineering and must satisfy Chapter 11.

All shop drawings, equipment submittals, installation drawings, calculations, and test records shall be reviewed by the Alabama – licensed professional design Engineer of Record. All installation drawings shall be engineered documents and must bear the seal, signature, and date of the Alabama-licensed professional engineer responsible for the engineering work as required by State of Alabama Board of Licensure for Professional Engineers and Land Surveyors Administrative Code r. 330-X-11-.03.

Commissioning of engineering works, products, and systems is defined as the practice of engineering (Alabama Code 34-11-1(13)) and must be performed under the responsible charge of a licensed professional engineer as permitted by Alabama Code § 34-11-14(2).

QUESTION 5

Does acceptance of ERCES design documents by a municipal building official, fire marshal, or other authority having jurisdiction ("AHJ") relieve any person or firm from compliance with Alabama engineering licensure requirements if the documents otherwise involve the practice of engineering?

FACTS, LAW, AND ANALYSIS

The Code of Alabama 1975 defines the practice of engineering. Section 34-11-1(13) (a1) and (b) states the following:

"a. Any professional service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work that includes any one or more of the following:

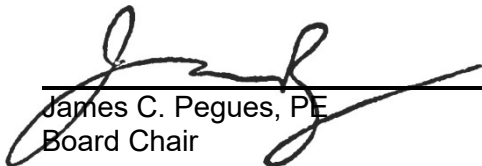
"1. Consultation, investigation, evaluation, planning, design and design coordination, or commissioning of engineering works, products, and systems.

"b. Any service or work described in paragraph a., either public or private, that is made in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, communications systems, transportation systems, industrial or consumer products, or equipment of a control system; or is of a mechanical, electrical, hydraulic, pneumatic, chemical, environmental, or thermal nature, insofar as the service or work involves safeguarding health, life, safety, welfare, and property. The term includes other professional services as may be necessary to the planning, progress, and completion of any engineering services.

CONCLUSION

The Board is empowered by law to establish the rules and regulations that cover specific requirements and procedures necessary for the proper administration of the Alabama law governing the practices of engineers and land surveyors.

Acceptance, approval, or permitting by a municipal building official, fire marshal, or other authority having jurisdiction (AHJ) does not create an exemption from Alabama's professional-engineering licensure statutes. Whether work constitutes the practice of engineering is governed by Title 34, Chapter 11 and the Board's rules, not by the AHJ's acceptance of the documents.



James C. Pegues, PE
Board Chair