

North Dakota State Board of Registration for Professional
Engineers and Land Surveyors

Testimony for ND Administrative Rules Committee, September 14, 2010

Presented by Clifford E. Keller, Executive Director

1. Did the rules result from statutory changes made by the Legislative Assembly? **Yes in part. The ND State Board of Registration sponsored legislation that was ultimately passed as Senate Bill 2268. These administrative rules represent the State Board's promulgation of the statutory changes contained in Senate Bill 2268.**
2. Do the rules relate to any federal statute or regulation? **No, the rules do not relate to any federal statute or regulation.**
3. Describe the rule making procedure followed by the State Board of Registration in adopting these rules. **Articles regarding the proposed rule changes and the hearing process were written and were published in the ND Society of Professional Engineers and the ND Society of Professional Land Surveyors newsletters. In addition, oral presentations were made to these groups as well as the ND Council of Consulting Engineers. Written notice of the hearing and a copy of the abbreviated notice were published in North Dakota newspaper pursuant to NDCC, Section 46-05-01. During this process, a copy of the notice of hearing, the abbreviated notice and the full notice were posted to the State Board's webpage. The hearing for the proposed rules was held at 3:00 p.m. on April 6, 2010 at the Ramkota Hotel in Bismarck. One individual attended the hearing but did not offer any oral or written testimony.**
4. Describe the content of any testimony, complaint, objection that was submitted to the State Board of Registration for consideration by the board members and the response of the State Board of Registration in this regards. **Two professional land surveyors employed by the ND DOT (co-signees of letter) and one corporation offered written responses to the State Board of Registration. The individuals were concerned that the State Board had proposed to drop the following from NDAC**

28-02.1-08 “No further certification need accompany the seal and signature”. The land surveyors were concerned that because the language was being dropped, county recorders may begin to require the signature on the survey to be notarized. The Board members agreed with the professional land surveyors that they are professional and any addition certification is unnecessary and agreed to have the statement reinstated to its original position. The corporate written letter was from a consulting firm located in Minneapolis and was related to who is eligible to make changes to “record” engineering drawings and if it is not the registrant who completed the original plans, how would that fact be disclosed if it is possible. The Board members discussed the issue and felt it was acceptable for a registrant other than the registrant who created the original engineering documents to make changes to the final drawings if they are construction phase revisions, including record drawings that do not affect the functional design and such revisions adequately reveal that the changes have been made and the original plans remain available for review. In both instances, letters were sent to those parties proposing the change. As was stated earlier, one individual appeared at the rules hearing but the individual did not offer any oral or written comments.

- 5. Summarize the approximate cost of giving public notice and holding the hearing. The State Board of Registration expended \$ 2,202.20 for publishing the notice of hearing in the newspaper. Legal costs were approximately \$1,170.00. Other costs included \$218.25 for rental of the hearing room and \$329.99 for the statutory review by the ND Attorney General’s office. The total cost for the process, excluding staff time, is \$3,920.44**
- 6. Provide an explanation of the subject matter of the rules and the reasons for adopting these rules. The majority of the rule changes relate to “housekeeping” changes with a number of substantive changes that will be described. There are a number of titles that have been changed and these changes appear throughout the adopted rules such as executive secretary to executive director, engineer in training and land surveyor in training to engineer intern and land surveyor intern and land surveyor to professional land surveyor and the certificate of authorization to certificate of commercial practice.**

Reference	Explanation	Page Number
NDAC 29-01-01	Board Membership is already covered in NDCC	3
	Executive Secretary is changed to Executive Director	3
NDAC 28-01-02.1-02	Roberts Rule of Order will govern meeting business	5
NDAC 28-01-02.1-04	Powers of Executive Director and provides for	6
	Asst. Executive Director in absence of Executive Director	
"	Provides for using state expense reimbursement form	"
NDAC 28-01-02.1-05	Roster will be provided at the State Board's web page	7
	Annual reports will be available at the State Board's web	8
	Page	
NDAC 01-02.1-06	Duplication – statement is contained in the NDCC	8
NDAC 28-01-02.1-07	Restates who is a registrant	10
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NDAC 28-02.1-01-04	Gives the Board the authority to determine how foreign	13
	degrees will be evaluated	
NDAC 28-02.1-01-07	Restates manner in which applications are received and	14
	retained	
NDAC 28-02.1-03	Removes qualifications for engineer/surveyor registration	16-19
	and clarifies temporary permit registration and qualifications	
	because they are contained in the NDCC	
NDAC 28-02.1-04-02	Adds to definition of land surveying and makes it uniform	20 & 21
	with comparable engineering definitions	
NDAC 28-02.1-05-01	Removes qualifications of engineer interns because they	22
	are contained in the NDCC	
NDAC 28-02.1-05-02	Removes qualifications for professional engineers	22 & 23
	registered by examination because they are contained in NDCC	
NDAC 28-02.1-06-01	Removes qualifications for land surveyor interns	24
	registration because they are contained in NDCC	
NDAC 28-02.1-06-02	Removes qualifications for professional land surveyor	24 – 26
	Because they are contained in the NDCC	

Reference	Explanation	Page Number
NDAC 28-02.1-07-01	Removes the qualifications for certificate of commercial practice because they are contained in the NDCC	27
NDAC 28-02.1-08	Defines the design for professional seals	29 & 30
"	Explains the basis for who can seal an engineering/surveying work product	31 & 32
NDAC 28-02.1-09-01	Removes the twelve year expiration for engineer interns; establishes methods by which expired registrants may become currently registered	34 & 35
NDAC 28-02.1-10-01	Restates the Board powers in establishing rules for examinations	36
NDAC 28-03.1-01-01	Amends certain parts of the Code of Ethics; changed to reflect changes in the professional and business practice methods	40 – 48

7. Was a regulatory analysis required by the North Dakota Century Code, Section 28-32-08 and was a regulatory analysis issued? **No regulatory analysis was required nor filed.**
8. Was a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and was that statement filed? **No regulatory analysis or economic impact statement of impact on small entities was required nor filed.**
9. Was a constitutional takings assessment prepared as required by NCEE Section 28-32-09? **A constitutional takings assessment was not required and was not prepared.**
10. Were these rules adopted as emergency rules? **No.**