

STATE OF NORTH DAKOTA

NORTH DAKOTA STATE BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

FULL NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota State Board of Registration for Professional Engineers and Land Surveyors (the "Board") will hold a public hearing to address amendments to existing chapters to Title 28, N.D.A.C., and adoption of new chapters to Title 28, N.D.A.C., as hereinafter set forth at 3:00 p.m., April 6, 2010, in the Governor's Room at the Best Western Ramkota Hotel, 800 S. 3rd Street Bismarck, North Dakota. The proposed amendments or adoptions are as follows:

AMENDMENTS TO N.D.A.C. CHAPTER 28-01-01

The proposed amendments to N.D.A.C. Chapter 28-01-01 refer to land surveyors registered with the Board of Registration for Profession Engineers and Land Surveyors (the "Board") as "professional" land surveyors, change the designation of the former executive secretary of the board to the executive director, and delete a rule defining board membership.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, reflect the current title of the executive director, and simply the rules by deleting an existing rule regarding Board membership that was merely a restatement of the law.

AMENDMENTS TO N.D.A.C. CHAPTER 28-01-02.1

The proposed amendments to N.D.A.C. Chapter 28-01-02.1 will change the designation of the former executive secretary of the Board to the executive director, replace a rule dealing with items of business at meetings of the Board with a rule providing

that Robert's Rules of Order will govern Board procedure, add language regarding the ability of the associate executive director to act in the place of the executive director in certain instances, expand the rule regarding surety bonds for all persons with signatory authority on Board accounts, add certain changes to the language about reimbursed expenses, add a rule regarding the retention of applications, delete rules dealing with the preparation of rosters and annual reports and stating the purposes of rule amendments, make grammatical changes, and to clarify that a registrant includes both individuals and organizations holding any certificate or permit issued by the Board.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, have the administrative code reflect the current title of the executive director, make sure that all persons handling the Board accounts are covered by a surety bond, make the rules consistent with current procedures of the Board, simplify the rules by deleting any existing rule that was merely a restatement of the law, or is unnecessary regarding the operations of the Board, and to improve the clarity of the rule.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-01

The proposed amendments to N.D.A.C. Chapter 28-02.1-01 will change the reference to engineer in training to engineer intern, change the reference to land surveyor in training to land surveyor intern, change the reference to land surveyors registered with the Board to professional land surveyors, change the referenced to certificate of authorization to certificate of commercial practice, delete or add language dealing with the completing of applications or applications from applicants with degrees from foreign schools, change executive secretary to executive director, and to delete a rule dealing with retention of records of applications.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, have the administrative code reflect the current title of the executive director, and simply the rules by deleting any existing rule that was merely a restatement of the law, or is unnecessary regarding the operations of the Board.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-02

The proposed amendments to N.D.A.C. Chapter 28-02.1-02 will delete language stating that application forms for registration may be obtained from the office of the Board, and delete the required deadlines for filing of applications in connection with examinations.

The purpose of the proposed rule amendment is to reflect that applications do not have to be obtained from the Board office, to reflect the current use of computers, and to allow deadlines for filing of applications to be established by the Board using its discretion based on the circumstances.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-03

The proposed amendments to N.D.A.C. Chapter 28-02.1-03 will delete from the Administrative Rules the qualifications and requirements for registration by endorsement, make it clear that a temporary permit is not a means of expedited registration, and provide that a temporary permit must be approved prior to practicing or offering to practice engineering as opposed to the submission of plans and specifications.

The purpose of the proposed rule amendment is to delete an existing rule that was merely a restatement of the law, and to make the Administrative Rules regarding temporary permits consistent with registration requirements of the law.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-04

The proposed amendments to N.D.A.C. Chapter 28-02.1-04 will make grammatical changes regarding general requirements or experience of applicants, change the reference to land surveyors registered with the Board to professional land surveyors, and add language dealing with experience of professional land surveyors required for registration.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, clarify language, and to set out the required experience for a professional land surveyor to qualify for registration.

AMENDMENTS TO N.D.A.C. CHAPTERS 28-02.1-05 AND 28-02.1-06

The proposed amendments to N.D.A.C. Chapters 28-02.1-05 and 28-02.1-06 will change the reference to land surveyors registered with the Board to professional land surveyors, change

the references to engineer in training and land surveyors in training to engineer intern and land surveyor intern, delete from the Administrative Rules the qualifications and requirements for registration of an engineer intern or a land surveyor intern, delete from the Administrative Rules the qualifications and requirements or for registration of a professional engineer or a professional land surveyor by examination, and clarify that the experience requirement must be subsequent to graduation and prior to writing the examination.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, simply the rules by deleting an existing rule that was merely a restatement of the law, and to clarify when required experience must be completed.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-07

The proposed amendments to N.D.A.C. Chapter 28-02.1-07 delete language stating that application forms for certificates of authorization may be obtained from the office of the Board, change the reference to certificate of authorization to certificate of commercial practice, and make it clear that certificates of commercial practice are subject to disciplinary actions.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, reflect that applications do not have to be obtained from the board office and reflect the current use of computers, and clarify the applicability of disciplinary procedures to certificates of commercial practice.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-08

The proposed amendments to N.D.A.C. Chapter 28-02.1-08 will add certificates of commercial practice to certificates required to be displayed, change the reference to land surveyors registered with the Board to professional land surveyors, make grammatical or language changes, and clarify that the rule does not affect the law as to working drawings and unfinished documents.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, and to improve the clarity of the rule.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-09

The proposed amendments to N.D.A.C. Chapter 28-02.1-09 will change the references to engineer in training and land surveyors in training to engineer intern and land surveyor intern, change the referenced to certificate of authorization to certificate of commercial practice, remove the provision by which certificates of registration for engineer interns and land surveyor interns expire after twelve years, add provisions regarding the timing of renewal fees for certificates of commercial practice, delete a specific late charge amount for late renewals and instead leave the issue up to the discretion of the Board, provide that reinstatement fees must be paid for individual registration which has lapsed for more than one year as opposed to two years, and make a grammatical change.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, delete the expiration date for intern certificates, encourage renewal rather than a lapse of registration followed by late renewal, increase the discretion of the Board as to late fees, and improve the clarity of the rule.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-10

The proposed amendments to N.D.A.C. Chapter 28-02.1-10 provide that examinations will be held when offered by the national council of examiners for engineering and surveying rather than attempt to state a time, date and place for the examinations, delete specific percentage requirements for professional land surveyor examinations, delete the percentage requirement of fifty before an applicant can apply for reexamination within one year, and delete specific fee amounts in the Administrative Code, while providing that fees as set by the Board may not exceed statutory caps.

The purpose of the proposed rule amendment is to reflect that all examinations are held as offered by the national council of examiners, rather than set by the Board, give the Board the discretion in setting passing grades for professional land surveyor examinations depending on the test, increase the ability of applicants not passing an examination to reapply, and to allow the setting of the fees to be handled pursuant to the existing law without an unnecessary Administrative Rule so as to allow the Board to exercise its discretion in setting fees as required for the administration of the Board's duties, subject to statutory caps.

AMENDMENT TO N.D.A.C. CHAPTER 28-02.1-11

The proposed amendment to N.D.A.C. Chapter 28-02.1-11 is a grammatical change.

The purpose of the proposed rule amendment is to improve the clarity of the rule.

AMENDMENTS TO N.D.A.C. CHAPTER 28-02.1-12

The proposed amendments to N.D.A.C. Chapter 28-02.1-12 will change the reference to land surveyors registered with the Board to professional land surveyors, and add a provision that a retired land surveyor may not act as the designated land surveyor or land surveyor in charge for a North Dakota organization.

The purpose of the proposed rule amendment is to make the administrative code consistent with recent statutory changes, and make the treatment of retired engineers and retired land surveyors consistent.

AMENDMENTS TO N.D.A.C. CHAPTER 28-03.1-01

The proposed amendments to N.D.A.C. Chapter 28-03.1-01 will change the reference to land surveyors registered with the Board to professional land surveyors, delete excess language regarding applicability of the code of ethics to land surveyors, delete a general statement regarding standards of integrity while leaving specific requirements regarding honesty, clarify provisions requiring avoidance of activities to be actual prohibitions of that activity, change the standard of avoiding conduct likely to deceive the public to a standard requiring willful action and intentional deceit, delete a requirement regarding civic affairs and work, allow a registrant to continue working on a project as to which the registrant becomes aware of action that violates applicable laws and which in registrant's judgment will adversely affect public life, health, or safety as long as the registrant provides a copy of registrant's objection and reasoning to a public official charged with the enforcement of the applicable laws, require that opinions be based on accurate information rather than an honest conviction of accuracy and propriety, add education to work qualifications, removing a requirement that registrants not associate with engineers or land surveyors who do not conform to ethical practices, make grammatical changes, and combine rules regarding aid to public

understanding and professional enhancement but make this portion of the Code of Ethics an encouragement to registrants, rather than a rule for which the registrant can be disciplined.

The purpose of the proposed rule amendment is to improve the clarity of portions of the code of ethics, replace arguably vague standards in some portions with more specific standards so that registrants can know exactly what conduct can subject them to discipline, make it clear that the client determines the final design of a project even if the registrant disagrees, and provide suggestion to registrants regarding some general goals to assist the public without making these suggestions the basis for disciplinary action.

The proposed rule amendments in the aggregate, or individually, are not expected to have an impact on the regulated community in excess of \$50,000, and the Board is an occupational or professional licensing agency. Accordingly, no regulatory analysis is required. None of the proposed rule amendments will result in the limitation of the use of private real property and therefore no takings assessment is required.

The proposed rules may be reviewed at the office of the North Dakota State Board of Registration for Professional Engineers and Land Surveyors at 723 W. Memorial Hwy., Bismarck, North Dakota, or by calling 701-258-0786 and requesting a copy of the proposed amended rule. Written data, views or arguments on the proposed rules may be sent to P.O. Box 1357, Bismarck, North Dakota, 58504. The deadline for submission of written comments concerning the proposed rules is April 19, 2010.

If you plan to attend the public hearing and you will need special facilities or assistance related to a disability, please contact the North Dakota State Board of Professional Engineers and Land Surveyors at the above telephone number at least five days prior to the hearing.

DATED: _____

Clifford E. Keller,
Executive Secretary