

NEW MEXICO STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS
RULE HEARING

VIDEOCONFERENCE RULE HEARING
February 4, 2022
9:11 a.m.
Albuquerque, New Mexico

BOARD CHAIR: MR. KARL TONANDER

REPORTED BY: Arlette McClain, CCR #85
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(N6302N-AM)

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1 CHAIRMAN TONANDER: Good morning, everyone.
 2 This is a public rule hearing of the New Mexico Board
 3 of Licensure for Professional Engineers and
 4 Professional Surveyors.
 5 This hearing will come to order at
 6 9:11 a.m. on February 4th, 2022, via the Zoom
 7 webinar platform, hosted in Santa Fe, New Mexico.
 8 I'm Karl Tonander, the Board Chair of the
 9 New Mexico Board of Licensure for Professional
 10 Engineers and Professional Surveyors. I'll be acting
 11 as the providing officer for this rule hearing.
 12 The purpose of this hearing is for the
 13 Board to receive public comments on proposed
 14 additions, amendments or repeals of the Board's
 15 current rules and regulations.
 16 The Board welcomes everyone present at this
 17 hearing this morning, beginning at 8:00 a.m. and
 18 ending when the rule hearing adjourns. A Board
 19 representative will be stationed at the Board office
 20 located at 2550 Cerrillos Road, third floor, Santa
 21 Fe, New Mexico, 87505, to receive written comments
 22 regarding the rule hearing and also to convey them to
 23 the board.
 24 Public attendance will be limited to remote
 25 participation. Oral participation by members of the

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1 public will be limited to those comments and
 2 discussion through audiovisual means.
 3 I know we have a screen up right now that
 4 talks through some of the sort of rules of the
 5 electronic meeting.
 6 Actually, Perry, could I have you read
 7 through that at this point, and then I'll continue on
 8 my spiel?
 9 MR. VALDEZ: Yes. This is an electronic
 10 meeting of the public assembly; however, it is still
 11 a public meeting conducted pursuant to the New Mexico
 12 Open Meetings Act, NMSA 1978, Sections 10-15-1 to 4.
 13 It was advertised with a video and telephonic link to
 14 allow the public to participate electronically, as
 15 well as through as any advanced e-mail communications
 16 through myself, the executive director, Perry Valdez.
 17 The public portions will be recorded on the Board
 18 website.
 19 All members of the Board participating
 20 remotely must identify themselves whenever they
 21 speak, as well as the public, and must be clearly
 22 audible. Members should avoid speaking over one
 23 another as much as possible. Please turn off your
 24 video feed when not participating in the Board's
 25 discussion. All votes of the Board during this

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1 meeting will be conducted by roll call vote.
 2 Please direct all comments or questions to
 3 myself, Perry Valdez, via private message, as I will
 4 monitor and communicate with the chair as required.
 5 The chair will address questions at his discretion.
 6 (Unintelligible) limitations could restrict
 7 simultaneous access with others.
 8 For any person that is addressing the
 9 Board, if you are cut off or having difficulty with
 10 access, please text or call myself at (505)570-7213
 11 so that a resolution may be provided, which may
 12 include suspending the discussion of an agenda item
 13 until the communication issue has been resolved.
 14 Additionally, the chair will suspend the
 15 meeting if disruptions of the audio or video occurs.
 16 Please call myself, Perry Valdez if you have any
 17 issues with conductivity.
 18 Please be courteous. Any inappropriate
 19 comment will be removed.
 20 Helpful requests, if you are using both the
 21 telephone and computer microphones, please mute one
 22 of them or we will get feedback. Please use the chat
 23 function or send an e-mail with your phone number or
 24 e-mail address if you are a participant. Please
 25 identify yourself when you begin speaking, especially

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1 for the court reporter. If you are testifying for an
 2 organization, please include the affiliation.
 3 With that, Mr. Chair.
 4 CHAIRPERSON TONANDER: Thank you, Perry.
 5 I'll continue now.
 6 This hearing is being conducted pursuant to
 7 the provisions of the New Mexico Engineering and
 8 Surveying Practice Act, NMSA 1978 Chapter 61, Article
 9 23, Section 10; the State Rules Act NMSA 1978,
 10 Sections 14-4-1 through -11, and the Uniform
 11 Licensing Act NMSA 1978, Section 61-1-29, which
 12 require a public hearing be held to allow interested
 13 persons a reasonable opportunity to give their views
 14 in writing or orally regarding proposed additions or
 15 amendments to, or repeal of any rule or regulation
 16 under the Board's authority. The Open Meetings Act,
 17 Section 10-15-1(a) mandates that this Board take
 18 action on the proposed rules at a properly-convened
 19 open meeting.
 20 Due to the COVID-19 public health state of
 21 emergency, this hearing is being held online via the
 22 Zoom platform. Let the record reflect that Zoom
 23 includes both audio and video functions, such that
 24 all participants can be observed audibly and
 25 visually.

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1 The New Mexico Lobbyist Regulation Act
 2 regulates activities before Boards and Commissions in
 3 rulemaking proceedings. Contact the Secretary of
 4 State's Office for information and registration.
 5 Public notice of this hearing was
 6 advertised in the New Mexico Register, the New Mexico
 7 Sunshine Portal, the Albuquerque Journal, the Board's
 8 website and on the bulletin board at the Board office
 9 on December 28, 2021.
 10 Notice of this hearing was sent to the
 11 Legislative Council Services on December 28, 2021.
 12 Copies of the notice have been available from the
 13 Board office since the notices were published, and
 14 are available to the public attending this hearing.
 15 Copies of the proposed rules were available from the
 16 Board office and the Board website.
 17 For the record, would the members of the
 18 audience please enter their name into the chat
 19 function, which will later be compiled into an
 20 attendance sheet as an exhibit into the record of
 21 this hearing.
 22 If you would like to provide a comment on a
 23 proposed rule, please indicate in the chat which rule
 24 you would like to comment on. If more than one,
 25 please indicate that as well.

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1 In fact, at this point, because there is a
 2 relatively small group of outside attendees outside
 3 of Board members, I will identify each person that I
 4 see up here, and ask them to generally state which
 5 rule they're going to contribute on, and what their
 6 affiliation is.
 7 In no particular order, Mr. Sanchez, could
 8 I ask you to identify who you are, who you are with,
 9 and what you intend to speak to.
 10 MR. SANCHEZ: Yes. I'm Patricio Sanchez.
 11 I'm up here in the Farmington area. I'm a petroleum
 12 engineer, so I guess you would say I'm affiliated
 13 with the oil and gas industry, although I'm not
 14 representing the oil and gas industry.
 15 I'm just concerned about the -- you know,
 16 any new regulation that comes into play. I am
 17 particularly interested in the portion regarding, you
 18 know, the industrial exemption, and where the needs
 19 for an engineer stop on the public versus private
 20 landlines, so to speak.
 21 Thank you.
 22 CHAIRPERSON TONANDER: And thank you for
 23 your interest and attendance today.
 24 MR. BOHANNAN: Mr. Chair, if I may.
 25 CHAIRPERSON TONANDER: Mr. Bohannan.

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1 MR. BOHANNAN: I think we need to call the
 2 meeting to order.
 3 CHAIRPERSON TONANDER: Actually, I can do
 4 this first.
 5 MR. BOHANNAN: Okay.
 6 CHAIRPERSON TONANDER: So going back
 7 through here. Mr. Coleman?
 8 MR. COLEMAN: Yes, I'm Steven Coleman here
 9 in Houston. I'm with CH (inaudible) and Associates.
 10 We're primarily oil and gas surveying services. I'm
 11 just a general attendee at this point. Thank you
 12 very much for allowing me to participate.
 13 CHAIRPERSON TONANDER: Thank you, sir, and
 14 thank you for attending.
 15 Mr. Grace, I know you already identified
 16 before we were recording. Could you come on again?
 17 Allen, are you there?
 18 I will pass on Mr. Allen Grace at the
 19 moment. He did identify himself previously with New
 20 Mexico Professional Surveyors.
 21 Ms. DeGreeff?
 22 MS. DEGREEFF: Good morning. My name is
 23 Jenny DeGreeff, and I am the director of engineering
 24 services at New Mexico Gas Company, and the section
 25 that I'm interested in, in particular, is 16.39.3,

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1 Section 11G.
 2 CHAIRPERSON TONANDER: Yes. Thank you also
 3 for participating, and thank you for providing
 4 comment in advance. Greatly appreciated.
 5 Who have I missed here, since it reordered
 6 on me?
 7 MR. SPIROCK: Mr. Chairman, my name is
 8 Clifford A. Spirock. I'm here just as an interested
 9 observer. I was on the Board for the last two and a
 10 half to three years, to see the rules hearing changes
 11 come to a conclusion. Thank you.
 12 CHAIRPERSON TONANDER: Thank you, Mr.
 13 Spirock.
 14 Mr. Burkholder?
 15 MR. BURKHOLDER: Good morning. My name is
 16 Earl Burkholder. I'm retired from teaching in the
 17 surveying and engineering program at New Mexico State
 18 University. My interest in this proceeding is the
 19 basis of varying the minimum standards, and I'm
 20 delighted that the Board seen fit to remove elevation
 21 from that definition. And I applaud you for
 22 everything that you've done. Thank you.
 23 CHAIRPERSON TONANDER: Thank you,
 24 Mr. Burkholder.
 25 A late arrival to this, Mr. Bullard, we are

10	<p>1 asking people to identify themselves, affiliation, 2 and generally what they might be speaking to or have 3 interest in. 4 MR. BULLARD: Tom Bullard. I'm vice 5 president of engineering for New Mexico Gas Company. 6 I have interest in the change in the industrial 7 exemption. 8 CHAIRPERSON TONANDER: Thank you very much 9 for joining us. 10 Have I missed anyone else, Perry? 11 MR. VALDEZ: Let me just double-check. I 12 believe we have everybody now. 13 CHAIRPERSON TONANDER: Thank you, Perry. 14 I would ask Perry, that if there are others 15 that join and I'm not paying as close attention as I 16 should, if you would interject to let me know, and 17 then also let them know what they need to do in terms 18 of putting their information into the chat function. 19 MR. VALDEZ: Certainly. 20 CHAIRPERSON TONANDER: Thank you. 21 So with that, Perry, actually would you 22 take the call of the roll of Board members present 23 for this hearing. 24 MR. VALDEZ: Mr. Alexander? 25 MR. ALEXANDER: Here.</p>	12	<p>1 reporter has been contracted to record the 2 proceedings. The court reporter will record the 3 proceedings, and the transcript will become part of 4 the rule hearing record, therefore, persons 5 recognized to address the Board are asked to identify 6 yourself for the record each time you address the 7 Board, and speak loudly and clearly so the reporter 8 can pick up your comments. 9 I would also like to advise all 10 participants in this hearing that they must only 11 speak one person at a time. In other words, no 12 person may interrupt another person who is speaking. 13 So as not to confuse anyone, this rule of 14 only one person speaking at a time applies to persons 15 making comments, Board staff and the Board members. 16 There cannot be exceptions to this rule. Of course, 17 if I fail to enforce this, the court reporter will 18 need to do so herself. Board members shall refrain 19 from talking to each other during this hearing, 20 particularly when someone in the audience is 21 speaking, please. 22 This hearing will be conducted in the 23 following manner. Mr. Valdez will present exhibits 24 to the Board. I, as the presiding officer, will rule 25 on the admissibility of the exhibits offered for</p>
11	<p>1 MR. VALDEZ: Maxine McReynolds? 2 MS. McREYNOLDS: Here. 3 MR. VALDEZ: Dr. Ahmed Elaksher? 4 DR. ELAKSHER: Here. 5 MR. VALDEZ: Ronald Bohannan? 6 MR. BOHANNAN: Here. 7 MR. VALDEZ: Dr. Walter Gerstle? 8 DR. GERSTLE: Here. 9 MR. VALDEZ: David Cooper? 10 MR. COOPER: Here. 11 MR. VALDEZ: Karen Nichols? 12 MS. NICHOLS: Here. 13 MR. VALDEZ: Stephen Ney? 14 MR. NEY: Here. 15 MR. VALDEZ: Mr. Chairman, we do have a 16 quorum. We have a full Board. 17 CHAIRPERSON TONANDER: Thank you, Perry. 18 And thank you to all of the Board members. I applaud 19 that we're having such great attendance at our 20 meetings. 21 Let the record show that Valerie Joe, 22 Assistant Attorney General is the legal counsel for 23 the Board, and is also present to advise the Board 24 and myself today. Much appreciated. 25 This is a formal proceeding. A court</p>	13	<p>1 admission after allowing questions from members of 2 the Board. Exhibits admitted into evidence are 3 available for review by members of the public. After 4 Mr. Valdez offers exhibits and they have been ruled 5 upon, I will open the hearing for comments from the 6 audience. 7 We'll proceed in numerical sequence of each 8 proposed rule. We will address only one rule at a 9 time; however, you may refer to other rules that 10 recently relate to that rule discussed, or which 11 relate to your comments. 12 After a person has testified or offered 13 comments, I will permit Board members to question 14 that person. Any member of the audience wishing to 15 question that person may do so after being recognized 16 by me, the presiding officer. Each person recognized 17 to speak shall identify him or yourself. 18 At the conclusion of gathering public 19 comment at this rule hearing, the Board will hold its 20 meeting, where they will conduct discussions and take 21 final action, such as amending, adopting, modifying, 22 tabling and so forth on the proposed rules. 23 This public hearing is now open. 24 Mr. Valdez, at this time do you have any exhibits to 25 introduce into evidence?</p>

14	<p>1 MR. VALDEZ: Mr. Chairman, we do have -- I</p> <p>2 have the following exhibits to enter into evidence.</p> <p>3 Exhibit 1, the Notice of Public Rule Hearing and</p> <p>4 Regular Board Meeting published in the New Mexico</p> <p>5 Register on December 28, 2021.</p> <p>6 Exhibit 2, Notice of Public Rule Hearing</p> <p>7 and Regular Board Meeting published on the New Mexico</p> <p>8 Sunshine Portal on December 28, 2021.</p> <p>9 Exhibit 3, the Notice of Public Rule</p> <p>10 Hearing and Regular Board Meeting published in the</p> <p>11 Albuquerque Journal on December 28, 2021.</p> <p>12 Exhibit 4, the December 28th, 2021,</p> <p>13 memorandum to the Legislative Council Services which</p> <p>14 provided notice of the Public Rule Hearing and was</p> <p>15 mailed on the same day.</p> <p>16 Exhibit Number 5, a December 28, '21,</p> <p>17 memorandum to interested parties, which was provided,</p> <p>18 notice of the Public Rule Hearing and was e-mailed on</p> <p>19 the same day.</p> <p>20 Exhibit Number 6, proposed rule for Part 2</p> <p>21 of 12.8 NMAC, entitled Minimum Standards for</p> <p>22 Surveying in New Mexico.</p> <p>23 Exhibit Number 7, proposed rule for Part 1</p> <p>24 of 16.39 NMAC, entitled General Provisions.</p> <p>25 Exhibit 8, proposed rule for Part 3 of</p>	16	<p>1 I would like to note that I'm pleased that</p> <p>2 there were several public comments submitted. I</p> <p>3 think that's an important part of this process, so I</p> <p>4 appreciate those.</p> <p>5 Are there any questions from the Board</p> <p>6 members?</p> <p>7 DR. GERSTLE: Mr. Chair, I have a question.</p> <p>8 CHAIRPERSON TONANDER: Yes, Dr. Gerstle.</p> <p>9 DR. GERSTLE: Are these exhibits -- can</p> <p>10 they be e-mailed to us, or can we view them on our</p> <p>11 own computers?</p> <p>12 CHAIRPERSON TONANDER: Perry, is this</p> <p>13 something we can make happen on short notice?</p> <p>14 MR. VALDEZ: Yes, we can. We're working on</p> <p>15 that right now, as we speak.</p> <p>16 MS. JOE: This is Valerie, the Board</p> <p>17 counsel. I just wanted to say that they are also</p> <p>18 available on the Board's website. So if anyone has</p> <p>19 access to the computer, and looks at the Board's</p> <p>20 website, they were required to be published on the</p> <p>21 website within three business days of receipt. So</p> <p>22 that is also another handy way to quickly take a</p> <p>23 look. I know large files take time to transfer.</p> <p>24 Thank you.</p> <p>25 And that is also for members of the public,</p>
15	<p>1 16.39 NMAC, entitled engineering licensure.</p> <p>2 Exhibit 9, proposed rule for Part 5 of</p> <p>3 16.39 NMAC, entitled Surveying.</p> <p>4 Exhibit Number 10, proposed rule for Part 6</p> <p>5 of 16.39 NMAC, entitled Licensure for Military</p> <p>6 Service Members.</p> <p>7 Exhibit Number 11, proposed rule for Part 7</p> <p>8 of 16.39 NMAC, entitled Miscellaneous Procedures.</p> <p>9 Exhibit 12, public comments on proposed</p> <p>10 amendments from Spyros Andreou, dated December 29,</p> <p>11 2021.</p> <p>12 Exhibit 13, public comments on proposed</p> <p>13 amendments from Rob Davis, dated December 29, 2021.</p> <p>14 Exhibit 14, public comments on proposed</p> <p>15 amendments from Stephen Mayer, dated December 29,</p> <p>16 2021.</p> <p>17 Exhibit 15, public comments from Mark</p> <p>18 Buhrke, dated December 29th, 2021.</p> <p>19 Exhibit 16, public comments on proposed</p> <p>20 amendments from Jennifer DeGreeff, dated January 28,</p> <p>21 2022.</p> <p>22 Those are all of the exhibits as of right</p> <p>23 now.</p> <p>24 CHAIRPERSON TONANDER: Thank you, Perry,</p> <p>25 for reading through that list.</p>	17	<p>1 in case you would also like to review the comments,</p> <p>2 as well.</p> <p>3 CHAIRPERSON TONANDER: Thank you, Ms. Joe.</p> <p>4 Any further comments from the Board</p> <p>5 members -- comments or questions?</p> <p>6 Hearing none --</p> <p>7 MR. BOHANNAN: Mr. Chairman, Ron</p> <p>8 Bohannan -- sorry.</p> <p>9 CHAIRPERSON TONANDER: Yes, Mr. Bohannan.</p> <p>10 MR. BOHANNAN: Are we going to go through</p> <p>11 each of those exhibits one by one in order?</p> <p>12 CHAIRPERSON TONANDER: We're going to go</p> <p>13 through them as they relate to the proceedings of</p> <p>14 this rules hearing, which is to say there is an order</p> <p>15 that follows in the procedure for the rules hearing.</p> <p>16 MR. BOHANNAN: Ron Bohannan. Thank you.</p> <p>17 CHAIRPERSON TONANDER: Of course.</p> <p>18 Any further questions or comments from the</p> <p>19 Board?</p> <p>20 Thank you.</p> <p>21 At this point, Exhibits 1 through 16 are</p> <p>22 hereby admitted into the record.</p> <p>23 (Exhibits 1 through 16 admitted.)</p> <p>24 CHAIRPERSON TONANDER: Mr. Valdez, to be</p> <p>25 clear, are there any other exhibits to enter into the</p>

18	<p>1 record at this time?</p> <p>2 MR. VALDEZ: Mr. Board Chair, there are</p> <p>3 none.</p> <p>4 CHAIRPERSON TONANDER: Thank you.</p> <p>5 Any persons wishing to provide their</p> <p>6 comments and who wish to submit any document with</p> <p>7 their comments shall do so when they're recognized to</p> <p>8 testify. Each document shall be introduced as an</p> <p>9 exhibit into the record.</p> <p>10 Board members will be permitted to ask</p> <p>11 questions before I rule on the admissibility of the</p> <p>12 evidence. Upon admissibility, each exhibit will be</p> <p>13 marked and numbered and entered into the record.</p> <p>14 At this time, each proposed rule will be</p> <p>15 introduced into the record. I'll open the floor to</p> <p>16 members of the audience for comments on each rule.</p> <p>17 Members of the Board or the audience may speak --</p> <p>18 sorry, may question each person providing comment,</p> <p>19 upon being recognized to speak. However, any</p> <p>20 discussion by the Board will be held during the</p> <p>21 meeting following the conclusion of this rule</p> <p>22 hearing.</p> <p>23 First, is the proposed rule for Part 2,</p> <p>24 Minimum Standards for Surveying in New Mexico. This</p> <p>25 is 12.8.2.7 NMAC, Boundary Survey.</p>	20	<p>1 CHAIRPERSON TONANDER: Yes, sir, Mr.</p> <p>2 Spirock.</p> <p>3 MR. SPIROCK: You might note that in</p> <p>4 addition to just removing the elevation, the option 2</p> <p>5 provision that's on the table also restructures it so</p> <p>6 that the basis of bearing in the old version applied</p> <p>7 only to boundary surveys.</p> <p>8 In this version, if adopted without</p> <p>9 changes, also applies to basis of bearing to apply</p> <p>10 for all classifications of surveying, with the</p> <p>11 exemption of ILRs, topographic surveys, and in</p> <p>12 certain cases, unclassified surveys.</p> <p>13 So it, essentially, takes it out of</p> <p>14 boundary surveys exclusively and applies it to other</p> <p>15 classes of survey in the code.</p> <p>16 Thank you.</p> <p>17 CHAIRPERSON TONANDER: Thank you,</p> <p>18 Mr. Spirock.</p> <p>19 Further comments?</p> <p>20 Thank you. Not seeing any, Board members,</p> <p>21 are there any questions of either Mr. Burkholder or</p> <p>22 Mr. Spirock?</p> <p>23 MR. BURKHOLDER: Burkholder here.</p> <p>24 CHAIRPERSON TONANDER: Mr. Burkholder, yes.</p> <p>25 MR. BURKHOLDER: I applaud Mr. Spirock for</p>
19	<p>1 The proposed language modifies the</p> <p>2 definition of Basis of Bearings in subsection Q, and</p> <p>3 12.8.2.9 NMAC, Boundary Survey. The proposed</p> <p>4 language modifies the boundary survey requirements,</p> <p>5 including the requirements to basis of bearing.</p> <p>6 Would anyone wish to comment on the second</p> <p>7 option for Part 2 of the minimum standards for</p> <p>8 surveying in New Mexico?</p> <p>9 MR. BURKHOLDER: Burkholder here.</p> <p>10 CHAIRPERSON TONANDER: Mr. Earl Burkholder,</p> <p>11 please.</p> <p>12 MR. BURKHOLDER: Earl Burkholder, retired</p> <p>13 from teaching at New Mexico State University.</p> <p>14 When the current minimum standards were</p> <p>15 published, I brought to the Board's attention the</p> <p>16 extraneous term "elevation," requested corrective</p> <p>17 action. And it has taken a long time for this defect</p> <p>18 to be removed, but I'm delighted that the Board has</p> <p>19 seen fit to follow through and remove the offending</p> <p>20 term from the definition of Basis of Bearing.</p> <p>21 Thank you.</p> <p>22 CHAIRPERSON TONANDER: Thank you,</p> <p>23 Mr. Burkholder.</p> <p>24 Would anyone else wish to comment?</p> <p>25 MR. SPIROCK: Mr. Chairman, Cliff Spirock.</p>	21	<p>1 expanding and including the additional coverage for</p> <p>2 the basis of bearing. I'm comfortable with what was</p> <p>3 done there.</p> <p>4 Thank you.</p> <p>5 CHAIRPERSON TONANDER: Thank you to both</p> <p>6 you gentlemen for working on this.</p> <p>7 Would anyone else in the audience wish to</p> <p>8 question either Mr. Burkholder or Mr. Spirock</p> <p>9 regarding their comments?</p> <p>10 Thank you very much.</p> <p>11 Second is the proposed rule for Part 1</p> <p>12 General Provisions 16.39.1.17 NMAC, Status of</p> <p>13 Licensure. The proposed language provides that an</p> <p>14 interim certification will be automatically</p> <p>15 superseded by the professional license.</p> <p>16 Clarifying that the licensee who requests</p> <p>17 for retired or inactive status, cannot be approved</p> <p>18 unless the licensee does not have any pending</p> <p>19 complaints, pending litigation, and has completed any</p> <p>20 imposed disciplinary actions in modifying the</p> <p>21 requirements of the reactivation of an inactive</p> <p>22 license of six years or more.</p> <p>23 Would anyone wish to comment on part one,</p> <p>24 General Provisions?</p> <p>25 DR. GERSTLE: Mr. Chair, this is Walter</p>

<p style="text-align: right;">22</p> <p>1 Gerstle.</p> <p>2 CHAIRPERSON TONANDER: Dr. Gerstle.</p> <p>3 DR. GERSTLE: I think this is -- basically,</p> <p>4 sort of helps with the administration. It doesn't</p> <p>5 seem to have a major impact on the profession; is</p> <p>6 that correct?</p> <p>7 CHAIRPERSON TONANDER: I believe that is</p> <p>8 correct.</p> <p>9 At this time I'm listening for comments,</p> <p>10 rather commenting on the rule itself.</p> <p>11 DR. GERSTLE: Okay. Thank you.</p> <p>12 CHAIRPERSON TONANDER: Yes, sir.</p> <p>13 Is there anyone else who wishes to comment</p> <p>14 on this piece? Any board member wish to address</p> <p>15 Dr. Gerstle's comment?</p> <p>16 Anyone in the audience?</p> <p>17 MR. SPIROCK: Mr. Chairman.</p> <p>18 CHAIRPERSON TONANDER: Mr. Spirock.</p> <p>19 MR. SPIROCK: Cliff Spirock.</p> <p>20 Walter, this was discussed previously but</p> <p>21 for the audience's sake, the current methodology for</p> <p>22 tracking licensees, includes intern certifications</p> <p>23 that never expire.</p> <p>24 So in going through the list of licensees,</p> <p>25 those who have obtained a surveyor's intern</p>	<p style="text-align: right;">24</p> <p>1 16.39.3.12 NMAC, Seal of Licensee, the</p> <p>2 proposed language clarified when more than one</p> <p>3 electronic signature is required.</p> <p>4 And 16.39.3.13 NMAC, Endorsements, the</p> <p>5 proposed language incorporates additional grounds for</p> <p>6 reciprocity for engineers licensed in other</p> <p>7 jurisdictions, as required by Section 61-23-14.1 NMSA</p> <p>8 1978 of the Engineering and Surveying Practice Act.</p> <p>9 Who wishes to go first commenting on Part</p> <p>10 3?</p> <p>11 As a reminder, this would be regarding the</p> <p>12 industrial exemption, which I know a couple of you</p> <p>13 have mentioned you would like to comment on.</p> <p>14 Ms. DeGreeff, I see you've unmuted.</p> <p>15 MS. DEGREEFF: Thanks. Sorry, it took me a</p> <p>16 minute to find the button.</p> <p>17 Jenny DeGreeff from New Mexico Gas. I</p> <p>18 provided comments in advance, and I'm not sure if</p> <p>19 it's appropriate if you would like me to read through</p> <p>20 the letter, or if just want to have free form</p> <p>21 discussion.</p> <p>22 CHAIRPERSON TONANDER: Given the relatively</p> <p>23 small number of people here, and I believe the</p> <p>24 importance that you are trying to bring to this, I</p> <p>25 think it is appropriate for you to go ahead and read</p>
<p style="text-align: right;">23</p> <p>1 certificate remain on the books no matter how old.</p> <p>2 There are some surveyors and engineers of</p> <p>3 professional practice that have been there for 40</p> <p>4 years, that still are duplicated by saying they have</p> <p>5 their certification as an intern, in addition to</p> <p>6 their professional registrations.</p> <p>7 Mr. Gerstle is correct, it is a</p> <p>8 housekeeping matter that provides these to our Board</p> <p>9 or your Board's recordkeeping.</p> <p>10 Thank you.</p> <p>11 CHAIRPERSON TONANDER: Thank you,</p> <p>12 Mr. Spirock.</p> <p>13 Any further comments?</p> <p>14 Not seeing any, we will move on.</p> <p>15 Third, is the proposed rule for Part 3,</p> <p>16 Engineering Licensure, Disciplines, Applications,</p> <p>17 Exams, Practice, Seal of License and Endorsements.</p> <p>18 This would include 16.39.3.7 NMAC definitions. The</p> <p>19 proposed language adds definitions for electronic</p> <p>20 signature, engineering experience and signature.</p> <p>21 16.39.3.11 NMAC, Practice of Engineering</p> <p>22 moved and created subsections to clarify the subject</p> <p>23 matter related to the practice of engineering and the</p> <p>24 industrial exemption in subsections (F) and (G)</p> <p>25 respectively.</p>	<p style="text-align: right;">25</p> <p>1 your comments, or if you would care to summarize,</p> <p>2 that would also be fine.</p> <p>3 MS. DEGREEFF: Sure. Thank you.</p> <p>4 Thank you for allowing me to share today.</p> <p>5 I appreciate that.</p> <p>6 So, particularly, we're concerned about the</p> <p>7 language about providing engineering services only</p> <p>8 within the legal boundaries of the property owner</p> <p>9 leased by New Mexico Gas Company. Ideally, we're</p> <p>10 hoping that this rule could be drafted, or we could</p> <p>11 get an interpretation such that NGC engineers could</p> <p>12 continue to perform work on our own facilities</p> <p>13 without licensure, regardless of the facility</p> <p>14 location. And this could be accomplished with an</p> <p>15 exemption for engineers of public utilities who are</p> <p>16 providing engineering services in relation to their</p> <p>17 own utility facilities.</p> <p>18 To the extent that the Board does not feel</p> <p>19 that that exemption for utilities is appropriate, we</p> <p>20 request a grace period for compliance with the new</p> <p>21 licensure requirement.</p> <p>22 As you can imagine, we have a lot of</p> <p>23 maintenance work that we're required to do to operate</p> <p>24 a safe and reliable natural gas company. And I think</p> <p>25 you guys appreciate it when we operate a safe and</p>

<p style="text-align: right;">26</p> <p>1 reliable natural gas company, which is what we plan 2 to continue to do. However, if we were required to 3 follow the rule as proposed, we have a concern that 4 we would need a grace period to get transitioned into 5 having a staff capable of providing this. 6 And what we're proposing is at least one 7 year for us to create a plan to address the changes, 8 and then an additional year to implement the changes 9 for our system, for total of two years prior to the 10 enforcement of the requirement. And that would allow 11 us to provide our employees with time to apply for 12 and take the PE exam when they're qualified, and also 13 for us to modify our existing policies and job 14 requirements. 15 And so, you know, that, obviously, is 16 dependent upon when we can get people to successfully 17 obtain their licenses, but we may need to hire 18 additional engineering resources within that time, 19 depending on what type of grace period we're allowed 20 to have. And those resources, especially in the 21 economy we have right now, are very tight, 22 particularly for this high-skilled professional 23 engineering. It's difficult and slow for us to get 24 those resources in. 25 So we just put those comments out there for</p>	<p style="text-align: right;">28</p> <p>1 apologize. 2 MS. DEGREEFF: As you are very well aware, 3 because I know we've worked with you in the past, a 4 lot of our facilities are installed by permit in DOT 5 or BLM right of way, as well as in easements that we 6 have procured throughout the years in the history of 7 the company. 8 So there are things that, loosely coined, 9 are leased by NMGC, could be extended to interpret 10 are easements that are off premise, including 11 permitted entries in BLM state land office and DOT. 12 As we currently are providing the work, 13 there's no requirement for the engineering licensure. 14 And so we're hoping to have a favorable 15 interpretation that allows us to continue that work, 16 as we are currently doing with no disruption to our 17 current business process. 18 MR. BOHANNAN: Mr. Chairman, Ron Bohannan. 19 Thank you. 20 CHAIRPERSON TONANDER: Thank you. 21 Is there another Board member who would 22 like to ask a question of Ms. DeGreeff? 23 DR. GERSTLE: Mr. Chair, this is Walter 24 Gerstle. 25 CHAIRPERSON TONANDER: Dr. Gerstle, yes.</p>
<p style="text-align: right;">27</p> <p>1 your consideration, and we're hoping that we can come 2 to an amenable solution. 3 CHAIRPERSON TONANDER: Thank you, 4 Ms. DeGreeff. 5 I would like to note that Board staff is 6 showing right now a portion of the letter that you 7 submitted as one of the exhibits -- I believe the 8 last exhibit, 16. 9 Thank you for doing that, as well, Board 10 staff. 11 Is there anyone from the Board who wishes 12 to ask a question of Ms. DeGreeff at this time, 13 before I ask for another comment from anyone? 14 MR. BOHANNAN: Mr. Chair, Ron Bohannan. 15 CHAIRPERSON TONANDER: Yes, sir. 16 MR. BOHANNAN: I would like to ask 17 Ms. DeGreeff, so if I understand what you're 18 commenting on, is that as long as the engineering is 19 on property that's totally owned by the Gas Company, 20 that the exemption would be -- or the industrial 21 exemption would still apply. 22 Give me your thoughts on those properties 23 where you only retain a lease, and what your 24 interpretation of that is in your letter? 25 That was a poorly-worded question, I</p>	<p style="text-align: right;">29</p> <p>1 DR. GERSTLE: Ms. DeGreeff, I'm 2 wondering -- so our goal is to protect the public, 3 and avoid the type of thing that happened, for 4 instance, in Massachusetts with people's residences 5 going up in flames, and that sort of thing, if I 6 recall that correctly. 7 Does New Mexico Gas Company feel that the 8 public is currently sufficiently protected, or does 9 the Gas Company agree with this -- the industrial 10 exemption as worded in this rewrite, recognizing that 11 you need a grace period to get engineers that can 12 fulfill the obligations? 13 MS. DEGREEFF: Thank you for that question, 14 Dr. Gerstle. 15 So we believe that we are providing safe 16 and practical engineering resources and engineering 17 practices to the community, and keeping public safety 18 at the forefront. 19 If we go into the Massachusetts incident, 20 we believe that New Mexico Gas, as a company, does not 21 enter into that space. And we are not asking to be 22 treated differently by any means. We have safety at 23 the forefront of our minds, and public safety is 24 always at the forefront of our minds. 25 We're asking for consideration of that, but</p>

<p style="text-align: right;">30</p> <p>1 should you choose not to consider it, we will move 2 forward with the rule as written, but just knowing 3 that that will be an impact to our ability to 4 continue our work, and just hoping for that grace 5 period. 6 DR. GERSTLE: Mr. Chair, thank you, 7 Ms. DeGreeff. 8 CHAIRPERSON TONANDER: Thank you both. 9 Any further questions from the Board for 10 Ms. DeGreeff? 11 MR. NEY: Mr. Chair, Stephen Ney. 12 CHAIRPERSON TONANDER: Yes, sir. 13 MR. NEY: Question for Jenny DeGreeff. So 14 what sort of grace period are you wanting to request, 15 as far as time length? 16 MS. DEGREEFF: Yes, sir. Thank you for the 17 question. 18 We're asking for one year for us to be able 19 to create a plan to address the changes within our 20 company, and another year for that plan to be 21 implemented. Because, as you know, with the best 22 intentions of creating a plan, sometimes there are 23 things you miss until you try and put it into 24 practice. So we're asking for a total of two years' 25 grace period to implement this.</p>	<p style="text-align: right;">32</p> <p>1 into the streets and the homes surrounding you, which 2 is why we feel as though we have a safe process; 3 however, the formality of getting a stamped drawing 4 adds time to that. As you can imagine, say you want 5 to remodel your house and you need to move the meter 6 so that you can do the remodeling on your house, and 7 that requires a stamped drawing, that impacts our 8 ability to deliver that service quickly to the 9 customer, because we currently don't do that as our 10 process. 11 So that's why we're asking for the two 12 years, in order to get that process figured out and 13 get stamped drawings. We do have standard drawings, 14 which is what allows us to do our work, but they have 15 not been stamped. And so I hope that answers your 16 question. 17 MR. SANCHEZ: Somewhat. It almost sounds 18 to me like you have the staff in place. It almost 19 sounds like you guys really need an administrative 20 fix to be able to do this. Because, I guess what 21 you're talking about is where you're out in a 22 neighborhood, and you have trunk lines going through 23 the neighborhood, and then you have your little ties 24 that go into the meters in a person's house. It 25 sounds like that's where the main sticking point is.</p>
<p style="text-align: right;">31</p> <p>1 MR. NEY: Thank you. 2 CHAIRPERSON TONANDER: Thank you both. 3 Other questions from Board members? 4 Any questions from other public attendees, 5 I should say, of Ms. DeGreeff? 6 MR. SANCHEZ: Yes, Patricio Sanchez here. 7 Ms. DeGreeff, just being kind of a basic 8 oil and gas guy myself, I'm just kind of curious. I 9 know like in years past I've dealt with, you know, 10 some of the predecessors of the organization that's 11 there now. And I'm just wondering -- I don't know 12 how to ask this question, but I'll go ahead and ask 13 it as quickly and easily as I can. 14 Do you guys not have PEs in your 15 organization anymore that can review the work of the 16 EITs and such that are working in your company? 17 MS. DEGREEFF: Thank you for the question, 18 Patricio. 19 So we do have professional engineers in our 20 company. We have a total of seven currently at this 21 time, and we have approximately 27 engineers doing 22 business. However, on our distribution system we 23 have several designers and project managers that are 24 not degreed engineers that do the work. Now, the 25 work is reviewed by several engineers prior to going</p>	<p style="text-align: right;">33</p> <p>1 It doesn't sound like it's out where you have big 2 construction, like you're replacing a lateral or 3 doing work at a meter station. 4 It sounds like where you're addressing, you 5 know, in neighborhoods and new services. And that 6 kind of relates back to Dr. Gerstle's concern in the 7 Massachusetts case. 8 I'm not saying that's not being taken care 9 of, but it sounds to me like you guys could take care 10 of that administratively, probably in less than a 11 year. But, you know, I don't know your organization 12 and how fluid and mobile you are. 13 But, anyway, thank you for allowing me to 14 comment to the Board, and thank you, Ms. DeGreeff, 15 for allowing me to converse with you back and forth 16 on this. 17 MS. DEGREEFF: And if I may just address 18 one thing about the Massachusetts incident, which was 19 an overpressure incident, and that was on utilization 20 system. And for those not as familiar with a local 21 gas distribution company, a utilization system is a 22 pressure to which the customers are being delivered 23 without any regulation going to their house. And so 24 your house appliances are designed to work on a 25 specific pressure.</p>

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1 Now, New Mexico Gas does not have any
 2 utilization systems. We have a regulator in front of
 3 every house and home in the State of New Mexico, and
 4 every business. And so where you're trying to
 5 address a concern from the Massachusetts incident, we
 6 feel like that concern, perhaps isn't as relevant to
 7 us, as far as the overpressurization.
 8 CHAIRPERSON TONANDER: Ms. DeGreeff, if I
 9 may ask you, when you say "relevant to us," you're
 10 speaking on behalf of your company, not necessarily
 11 all natural gas distribution in New Mexico; is that
 12 correct?
 13 MS. DEGREEFF: Thank you, yes, for the
 14 clarification. New Mexico Gas Company does not have
 15 any utilization systems. I cannot speak to other gas
 16 companies.
 17 CHAIRPERSON TONANDER: Thank you.
 18 Any further questions for Ms. DeGreeff?
 19 Hearing none for Ms. DeGreeff, I would ask
 20 if there is anybody else attending from the public
 21 who like to provide a comment on this rule?
 22 MR. SANCHEZ: Yes, I would, sir.
 23 CHAIRPERSON TONANDER: Mr. Sanchez.
 24 MR. SANCHEZ: Well, I sent my e-mail,
 25 probably a little bit late. I got on to the website

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1 and found all of the links and everything and sent
 2 one off yesterday or the day before, but I'm actually
 3 in support of this rule. It makes sense to me,
 4 because, you know as engineers, you know, we are
 5 tasked with protecting the public health, you know.
 6 And we've had some -- all this discussion around
 7 infrastructure and things like that, and that's a
 8 political hot potato, I know. But, I mean, gas,
 9 electricity, water, wastewater, these are all basic
 10 services that we depend on for our civil society, and
 11 I salute whoever drafted these regs for putting them
 12 in. In my e-mail, I actually put that I thought
 13 maybe that it shouldn't apply to things that are
 14 leased or rented. That, you know, as long as they
 15 own the property, you know, it could stop at the
 16 boundary, but I felt like it didn't protect the
 17 person that actually owned the property in the case
 18 of a lease or rental.
 19 So I'm supportive of this -- of this -- of
 20 this new portion of the rules. I think it helps, you
 21 know, just do things better at the end of the day for
 22 the public, so they have confidence that we're, you
 23 know, designing and putting in these -- these
 24 processes and we're protecting the public. And I
 25 appreciate discussion, you know -- well, we can do

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1 this, but it's going to take us some time, and that's
 2 why you have these sorts of discussions. But I'm
 3 supportive of it, generally, and I kind of -- like I
 4 say, in my e-mail that I sent -- I sent it late,
 5 but -- I forwarded it and I thought we needed some
 6 protection for leasers and renters too, and with
 7 that, that's it.
 8 CHAIRPERSON TONANDER: Thank you,
 9 Mr. Sanchez.
 10 Is there any board member who wishes to ask
 11 a question of Mr. Sanchez?
 12 DR. GERSTLE: So --
 13 CHAIRPERSON TONANDER: Dr. Gerstle.
 14 DR. GERSTLE: Mr. Chair, this is Walter
 15 Gerstle. One more question, which probably
 16 demonstrates my ignorance.
 17 When we have a gas line going down the
 18 street to our houses, is that -- so I assume there is
 19 a right-of-way for that gas line. That would not be
 20 considered leased property; is that correct?
 21 CHAIRPERSON TONANDER: That is correct. It
 22 would be subject to regulation per the proposed
 23 change.
 24 DR. GERSTLE: So that would require an
 25 engineer's stamp --

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1 CHAIRPERSON TONANDER: Right.
 2 DR. GERSTLE: -- for that type of design
 3 work?
 4 CHAIRPERSON TONANDER: Correct.
 5 DR. GERSTLE: Okay. Thank you.
 6 CHAIRPERSON TONANDER: Yes, sir.
 7 Are there any other Board members who
 8 wishes to ask a question of Mr. Sanchez?
 9 Seeing none, is there a member of the
 10 public who wishes to ask a question of Mr. Sanchez?
 11 Thank you very much, Mr. Sanchez.
 12 Is there anyone else from the public who
 13 wishes to comment on this proposed rule?
 14 MS. JOE: Presiding Officer Tonander, this
 15 is Valerie Joe.
 16 I just wanted to ask Mr. Sanchez if he
 17 wanted to include his e-mail, because as you stated
 18 in the procedures for this rule hearing, if someone
 19 wanted to include exhibits when they speak, they
 20 could. I understand that Mr. Sanchez tried to
 21 deliver it late to the Board, but it would be to
 22 his -- if he wanted to put that in with his public
 23 comment here, he could potentially have that option.
 24 Thank you.
 25 CHAIRPERSON TONANDER: Thank you, Ms. Joe.

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1 Mr. Valdez, do we have a copy of
 2 Mr. Sanchez's e-mail?
 3 MR. VALDEZ: Yes, we do. We have printed
 4 it out to add it to the exhibits.
 5 CHAIRPERSON TONANDER: Okay. So when that
 6 time comes, it sounds like we'll be looking at it as
 7 Exhibit 17; is that correct?
 8 MR. VALDEZ: Correct.
 9 CHAIRPERSON TONANDER: I'll make a note to
 10 myself, before I forget.
 11 MR. BOHANNAN: Mr. Chair, Ron Bohannon. Do
 12 we have to move to introduce that into the record or
 13 as chair, will you be able to do that?
 14 MS. JOE: I believe you can do that now,
 15 because I believe since Mr. Sanchez did mention it
 16 and wanted to do it, I would just get his affirmation
 17 that he would like that to happen, and then you could
 18 introduce, or Mr. Valdez can introduce that and you
 19 can enter that, Presiding Officer.
 20 Thank you.
 21 CHAIRPERSON TONANDER: Thank you, Ms. Joe.
 22 Thank you, Member Bohannon, for that
 23 leading question.
 24 Mr. Sanchez, to that point, would you like
 25 it to be admitted as an exhibit?

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1 MR. SANCHEZ: Yes, sir, absolutely. And
 2 thank you for allowing that.
 3 CHAIRPERSON TONANDER: Thank you, sir, for
 4 submitting your interest.
 5 Mr. Valdez, if it is possible, is there a
 6 way that you could display that, by chance, for
 7 everyone?
 8 MR. VALDEZ: Yes. Just bear with me
 9 momentarily.
 10 CHAIRPERSON TONANDER: Yes.
 11 MR. BOHANNAN: Mr. Chair, Ron Bohannon.
 12 CHAIRPERSON TONANDER: Yes, sir.
 13 MR. BOHANNAN: I believe that all of the
 14 exhibits will be provided to the court reporter as
 15 well as part of the record.
 16 CHAIRPERSON TONANDER: That is correct.
 17 MR. BOHANNAN: Thank you.
 18 MR. VALDEZ: We'll have that momentarily.
 19 Bear with us.
 20 CHAIRPERSON TONANDER: Thank you for being
 21 accommodating, Perry.
 22 Thank you. Mr. Sanchez, does this look
 23 familiar to you?
 24 MR. SANCHEZ: That looks like part of it.
 25 I kind of highlighted some stuff.

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1 Yeah, here we go -- yeah. Yup, and that is
 2 along the lines of what I spoke about earlier about
 3 the leased and rented land, you know, because I kind
 4 of felt like that they needed to be protected, too.
 5 I mean, somebody comes and puts a facility on your
 6 property, and you lease it to them and then it goes
 7 boom. Okay, let's protect them, too. That's what I
 8 was getting at there.
 9 CHAIRPERSON TONANDER: Okay. Thank you
 10 very much, Mr. Sanchez.
 11 And having recognized it there, I think I'm
 12 okay having that admitted as Exhibit Number 17,
 13 Perry.
 14 All right. I think I was asking if there
 15 was anyone else from the public who wished to comment
 16 on this proposed rule.
 17 Not seeing any unmuting here, I will move
 18 on.
 19 Fourth is the proposed rule for Part 5
 20 Surveying; Applications, Examinations, Practice of
 21 Surveying, Seal of Licensee.
 22 16.39.5.7 NMAC definitions. The proposed
 23 language adds the definition for NCEES. 16.39.5.8
 24 NMAC, Application, Surveyor Intern and Professional
 25 Surveyor. The proposed language aligns the rules

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1 with Section 61-23-17.4, paren A, NMSA 1978 of the
 2 Engineering and Surveying Practice Act, which changed
 3 the experience requirement for licensure as a
 4 professional surveyor and in accordance with Section
 5 14-4-5.7 of the State Rules Act, Sections 14-4-1 to
 6 -11 NMSA 1978, 16.39.5.10 NMAC, Practice of
 7 Surveying, the proposed language creates the new
 8 subsection related to the industrial exemption in
 9 subsection G. And 16.39.5.11 NMAC, Seal of Licensee,
 10 the proposed language clarifies when more than one
 11 electronic signature is required.
 12 Would anyone wish to comment on Part 5?
 13 Anyone from the public?
 14 I do not see anyone raising their hand or
 15 unmuting.
 16 Is there anyone from the Board who'd like
 17 to speak on this, or we can move on?
 18 Seeing none, we'll move on.
 19 Fifth for consideration is the proposed
 20 rule for Part 5, Licensure for Military Service
 21 Members, Spouses and Veterans. 16.39.6.7 NMAC,
 22 Definitions. The proposed languages modifies the
 23 definition for a recent veteran, and adds definitions
 24 for spouse, child and licensing fee.
 25 Also, 16.39.6.8, NMAC, Application

42	<p>1 Requirements. The proposed language requires certain</p> <p>2 documentation to qualify for expedited licensure for</p> <p>3 military service member, spouses and veterans. The</p> <p>4 absence of the license fee for the first three years</p> <p>5 and the requirement of the Board to issue the</p> <p>6 expedited license within 30 days of a completed</p> <p>7 application pursuant to the Uniform Licensing Act,</p> <p>8 Sections 61-1-31.1, and 61-1-34 NMSA 1978.</p> <p>9 Anyone for the public wish to comment on</p> <p>10 Part 6?</p> <p>11 Again, not seeing anyone raise their hand</p> <p>12 or unmute, would any board member wish to speak to</p> <p>13 this?</p> <p>14 MR. BOHANNAN: Mr. Chair, Ron Bohannon.</p> <p>15 CHAIRPERSON TONANDER: Mr. Bohannon.</p> <p>16 MR. BOHANNAN: Thank you, Mr. Chair. This</p> <p>17 is really cleaning up our rules from directives by</p> <p>18 some of the changes in the Act, as well as from the</p> <p>19 governor's office. We've actually been implementing</p> <p>20 this for a number of years. This just codifies all</p> <p>21 of those processes for the general public's</p> <p>22 understanding.</p> <p>23 CHAIRPERSON TONANDER: Thank you,</p> <p>24 Mr. Bohannon.</p> <p>25 Anyone from the public wish to address</p>	44	<p>1 consideration of criminal convictions in applications</p> <p>2 and disciplinary matters, pursuant to Section 61-1-36</p> <p>3 of the Uniform Licensing Act, listing the specific</p> <p>4 criminal convictions that could disqualify an</p> <p>5 applicant from receiving a license on the basis of</p> <p>6 previous felony conviction, and adding related</p> <p>7 limitations on the Board's consideration of such</p> <p>8 convictions.</p> <p>9 The purpose of the rule is to ensure that</p> <p>10 applications and complaints against licensees and</p> <p>11 certification holders are evaluated and adjudicated</p> <p>12 in a fair and impartial manner that complies with due</p> <p>13 process, while ensuring the public's confidence in</p> <p>14 the profession.</p> <p>15 Would anyone wish to comment on Part 7,</p> <p>16 Miscellaneous Procedures?</p> <p>17 Anyone from the public, first?</p> <p>18 Not seeing any hands or unmuting, would</p> <p>19 anyone from the Board wish to comment on this?</p> <p>20 MR. BOHANNAN: Mr. Chair, Mr. Bohannon.</p> <p>21 CHAIRPERSON TONANDER: Mr. Bohannon.</p> <p>22 MR. BOHANNAN: Mr. Chair, I just would</p> <p>23 wanted to lay some framework of how this -- these</p> <p>24 rule changes came into being.</p> <p>25 In reviewing the list of crimes, the Board</p>
43	<p>1 Mr. Bohannon's comments?</p> <p>2 I don't see any response.</p> <p>3 Anyone from the Board wish to add to</p> <p>4 Mr. Bohannon's comments?</p> <p>5 Not seeing anything, as well.</p> <p>6 We'll move on, then, to the final proposed</p> <p>7 rule, Part 7, Miscellaneous Procedures for</p> <p>8 Revocation, Suspension, Imposition of Fines,</p> <p>9 Reissuance of Certificates and Disciplinary Action.</p> <p>10 16.39.7 NMAC, the proposed language adds "Issuance"</p> <p>11 to the title. So it would read Part 6, Miscellaneous</p> <p>12 Procedures for Issuance, Revocation, Suspension,</p> <p>13 Imposition of Fines, Reissuance of Certificates of</p> <p>14 Disciplinary Action, so it is retitling.</p> <p>15 16.39.7.7 NMAC, Definitions. The proposed</p> <p>16 language adds the definition of "disqualifying</p> <p>17 criminal conviction." And 16.39.7.8 NMAC,</p> <p>18 Revocation, Suspension, Imposition of Fines,</p> <p>19 Reissuance of Licenses and Certificates and</p> <p>20 Disciplinary Action. The proposed language adds</p> <p>21 "issuance" to the title of this section, before the</p> <p>22 word "revocation," and subsection F is added to</p> <p>23 comply with the statutory changes to the Criminal</p> <p>24 Offender Employment Act and Uniform Licensing Act.</p> <p>25 The rule also adds new language governing the Board's</p>	45	<p>1 weighed the crimes against the intent of the</p> <p>2 Engineers and Professional Surveying Act. The</p> <p>3 primary purpose of the Act, as already mentioned</p> <p>4 today, is to protect the public health and welfare in</p> <p>5 the preparation of plans and surveys, as well as</p> <p>6 providing guidance in the normal day to day</p> <p>7 activities of engineers and surveyors.</p> <p>8 The actions of the license reflect on the</p> <p>9 public health and welfare. Those crimes that are</p> <p>10 listed reflect instances where the individual</p> <p>11 convicted of those crimes demonstrated that those</p> <p>12 crimes flew in the face of the Act, and shows that</p> <p>13 the individual may not be able to protect the public</p> <p>14 health and welfare of the citizens of the State of</p> <p>15 New Mexico, and that's how the list was established</p> <p>16 for the rules.</p> <p>17 CHAIRPERSON TONANDER: Thank you very much,</p> <p>18 Mr. Bohannon.</p> <p>19 Anyone from the public care to ask Member</p> <p>20 Bohannon a question regarding his comments?</p> <p>21 Seeing nothing, anyone from the Board wish</p> <p>22 to comment or question Mr. Bohannon?</p> <p>23 DR. GERSTLE: Mr. Chair.</p> <p>24 CHAIRPERSON TONANDER: Dr. Gerstle.</p> <p>25 DR. GERSTLE: This is Walter Gerstle. I</p>

<p style="text-align: right;">46</p> <p>1 just want to make a comment that as a professor of 2 civil engineering, one time a student of mine said 3 that I was too punitive, and -- in my teaching, and 4 that -- I thought about that for a long time. 5 Punitive, to be punishing, is a judgment that you 6 have to make as an engineer to hold ourselves 7 accountable and responsible for the public safety, 8 and for the welfare of the public, sometimes you need 9 to be punitive. 10 And in selecting these offenses where we 11 choose not to let people off the hook because of 12 their -- because of these defenses, we're kind of 13 being upfront about what's necessary. So we're kind 14 of holding the tide back and trying to make sure that 15 we're accountable. So I commend Ron Bohannon for -- 16 I think he came up with the list of offenses here 17 that we simply will not allow into the profession. 18 CHAIRPERSON TONANDER: Thank you, 19 Dr. Gerstle. 20 Any response, Member Bohannon? 21 MR. BOHANNAN: Mr. Chair, no. I think, 22 actually, this brings a lot more clarity to the Act. 23 So, for instance, if you are accused of some of the 24 more minor crimes that are listed in the state, that 25 it doesn't bring it to the same threshold. Before it</p>	<p style="text-align: right;">48</p> <p>1 wish to do. 2 CHAIRPERSON TONANDER: I would -- to be 3 consistent with everything, I would like to at least 4 get this in as an exhibit. I think it presents a 5 complete record in doing so. And any further 6 discussion of this can, of course, occur at the 7 subsequent Board meeting. 8 So with that, Mr. Andreous' e-mail should 9 be known as Exhibit 18, correct? 10 MR. VALDEZ: That's correct. 11 CHAIRPERSON TONANDER: Thank you. It is 12 hereby admitted. Thank you. 13 (Exhibit 18 admitted.) 14 DR. ELAKSHER: Can I ask a question, 15 please? Ahmed Elaksher. 16 CHAIRPERSON TONANDER: Yes. 17 DR. ELAKSHER: He is asking for eliminating 18 the technology programs, in the language of the rules 19 or in the State of New Mexico? 20 MR. VALDEZ: This is Perry Valdez. In 21 order to do so, we would have to update the Practice 22 Act with legislative action. 23 DR. ELAKSHER: That is for the Practice 24 Act, not for the universities. 25 MR. VALDEZ: Correct.</p>
<p style="text-align: right;">47</p> <p>1 was really up to our discretion, and so this way it 2 provides more definition. And, I think it's one of 3 those things, that as the committee continues to 4 review the rules from -- periodically, that it's one 5 of those things that we probably need to go back and 6 look at those rules and those crimes periodically, as 7 well. 8 CHAIRPERSON TONANDER: Thank you, Member 9 Bohannon. 10 Any further comments from anyone from the 11 Board regarding what Mr. Bohannon has stated? 12 Seeing none, I will continue on. 13 I have been alerted that there may be 14 another exhibit that we want to consider at this 15 time. 16 Perry, could you explain? 17 MR. VALDEZ: Mr. Chair, members of the 18 Board, members of the public, I received an e-mail 19 early this morning from a gentleman, Spyros Andreou, 20 and we'll place his e-mail up on the screen. 21 He has requested as the Board is convening, 22 that he is urging to eliminate the engineering 23 technology programs and -- as you can see, it's on 24 the screen, if you wish to enter that as an exhibit 25 at this point, or at your discretion with what you</p>	<p style="text-align: right;">49</p> <p>1 CHAIRPERSON TONANDER: Mr. Valdez. 2 MR. VALDEZ: We have joining us late is 3 Mr. Jason Montoya. 4 CHAIRPERSON TONANDER: Oh, excellent. 5 Mr. Burkholder, I see your hand is up. 6 MR. BURKHOLDER: Thank you. I will readily 7 admit my bias toward EAC accreditation. I have 25 8 years of teaching experience in the college classroom 9 under the technology label, if you will. But in the 10 survey arena, we argued that surveying was not 11 technology, and engineers argued that it was not 12 engineering. The related curriculum commission was 13 established, and the goal there was to establish 14 curriculum just as rigorous as engineering, but not 15 requiring those engineering courses. 16 The level of math became an issue, and in 17 my entire teaching career, this math issue was very 18 important. I don't know the exact best solution, but 19 I am willing to say that I personally witnessed 20 dilution of rigor in programs that offered a 21 technology degree, and I'll urge you to find a way to 22 preserve the rigor without alienating those who 23 choose to go to an engineering technology program. 24 Thank you. 25 CHAIRPERSON TONANDER: Thank you, Mr.</p>

50	<p>1 Burkholder.</p> <p>2 Does anybody -- any Board member wish to</p> <p>3 respond to Mr. Burkholder or ask a question?</p> <p>4 Seeing none. Any member of the public wish</p> <p>5 to respond to Mr. Burkholder?</p> <p>6 All right. Thank you, Mr. Burkholder.</p> <p>7 Mr. Montoya, you have arrived toward the</p> <p>8 tail end of the hearing.</p> <p>9 Would you mind identifying yourself and</p> <p>10 your affiliation, and any interest you might have had</p> <p>11 in attending.</p> <p>12 MR. MONTOYA: Thank you. Good morning,</p> <p>13 everyone. Jason Montoya, Pipeline Safety Bureau</p> <p>14 chief at the New Mexico Public Regulation Commission.</p> <p>15 I'm more of an observer. I apologize for being late.</p> <p>16 We've had back-to-back staff meetings all morning,</p> <p>17 and as most of you might be aware, and are involved,</p> <p>18 the legislation is ongoing. So we are constantly</p> <p>19 having our hands full in the morning session. So I</p> <p>20 apologize. But I'm interested in the outcome. I</p> <p>21 think I like the idea of the support as an</p> <p>22 individual, as a professional engineer. And I know,</p> <p>23 Mr. Tonander, we've had discussions in the past about</p> <p>24 it, so thank you.</p> <p>25 CHAIRPERSON TONANDER: Thank you,</p>	52	<p>1 this rule hearing. The Board will formally vote on</p> <p>2 the proposed rules at that time.</p> <p>3 Any rules adopted by the Board will be</p> <p>4 filed at State Records and Archives in accordance</p> <p>5 with the State Rules Act, and the New Mexico Register</p> <p>6 publication deadlines.</p> <p>7 The adopted rules become effective 30 days</p> <p>8 after they are filed at State Records and Archives,</p> <p>9 and will also be published in the New Mexico</p> <p>10 Register.</p> <p>11 Any rules not adopted may be postponed for</p> <p>12 future discussion at a definite time in the future,</p> <p>13 or may be postponed indefinitely.</p> <p>14 I would like to thank all the Board members</p> <p>15 and everyone present today for their participation</p> <p>16 and attendance, particularly those from the public</p> <p>17 that took their time to do this.</p> <p>18 We'll take a ten-minute break, to get us to</p> <p>19 about 10:30 to allow staff to set up for the regular</p> <p>20 meeting. And we'll begin the regular meeting at that</p> <p>21 time.</p> <p>22 Let the record of this hearing indicate</p> <p>23 that it is now closed and we were adjourned at</p> <p>24 10:20 a.m.</p> <p>25 Again, thank you everyone for your</p>
51	<p>1 Mr. Montoya.</p> <p>2 As a reminder, Mr. Montoya, and the others</p> <p>3 that have contributed today for the public, after the</p> <p>4 conclusion of this rules hearing, we will be having a</p> <p>5 board meeting to discuss any proposed changes to</p> <p>6 these rules. You are invited to please stay and</p> <p>7 provide further comment as might be appropriate then.</p> <p>8 Has everyone provided their name and e-mail</p> <p>9 address in the chat function? If you have not,</p> <p>10 please do so before this meeting ends, which will be</p> <p>11 very shortly.</p> <p>12 At this time, the attendance sheet prepared</p> <p>13 by Mr. Valdez from that chat function shall be marked</p> <p>14 as an exhibit and entered into the record.</p> <p>15 MR. VALDEZ: I ask for the admission of the</p> <p>16 attendance sheet as Exhibit 19.</p> <p>17 CHAIRPERSON TONANDER: Thank you, Perry.</p> <p>18 Do the Board members have any questions</p> <p>19 regarding the admission of that as Exhibit 19?</p> <p>20 Seeing none, Exhibit 19 is hereby admitted</p> <p>21 into the record as the attendance sheet.</p> <p>22 (Exhibit 19 admitted.)</p> <p>23 The comments submitted, and discussion</p> <p>24 heard during the rule hearing will be considered and</p> <p>25 discussed during the regular open meeting following</p>	53	<p>1 participation today.</p> <p>2 (The Rule Hearing was concluded at 10:20</p> <p>3 a.m.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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12 disposition of this case in any court.

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