

**TRANSCRIPT OF NEW MEXICO BOARD OF LICENSURE FOR  
PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS  
RULE HEARING MEETING**

**DECEMBER 3, 2021**

**09:07 A.M.**

1 MR. BOHANNAN: ... introduce them?

2 MR. TONANDER: I will follow the script which because  
3 this isn't a Board Meeting it really doesn't work quite like  
4 that but there's a point at which everybody is going to have to  
5 introduce themselves.

6 MR. BOHANNAN: Okay.

7 MR. TONANDER: Okay, morning everyone. This is a  
8 Public Rule Hearing in the New Mexico Board of Licensure for  
9 Professional Engineers and Professional Surveyors. This  
10 hearing will come to Order at 9:07 a.m. on December 8<sup>th</sup>, 2021  
11 via the Zoom Webinar Platform hosted in Santa Fe, New Mexico.

12 I am Karl Tonander, Committee Chair of the Rules  
13 Regulations Law Enforcement Committee of New Mexico Board of  
14 Licensure for Professional Engineers and Professional  
15 Surveyors. I will be the Presiding Officer for this Rule  
16 Hearing. Perry would you like to present anything you're doing  
17 there or would you like me to continue with the Opening  
18 Statement?

19 MR. VALDEZ: I believe your Opening Statement has  
20 everything that we need for the -- for the --

21 MR. BOHANNAN: The Rules.

22 MR. VALDEZ: -- right, for the telephonic -- the  
23 virtual telephonic meeting so all the protocols. So, I'll let  
24 you go through.

25 MR. TONANDER: Is actually fairly limited with that

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1 but I will let you have an opportunity to speak after a bit  
2 more.

3 MR. VALDEZ: Okay.

4 MR. TONANDER: The purpose of this Hearing is for the  
5 Board to receive public comments on proposed additions,  
6 amendments or repeals of the Boards current Rules and  
7 Regulations. The Board welcomes everyone present at this  
8 hearing.

9 This Hearing is being conducted pursuant to the provisions  
10 of New Mexico Engineering Survey Practice Act NMSA 1978,  
11 Chapter 61 Article 23 Section 10.

12 The State Rules Act NMSA 1978 Sections 14-4-1 to -11 and  
13 Uniform Licensing Act NMSA 1978, Section 61-1-129 which require  
14 a Public Hearing to be held to allow interested persons a  
15 responsible opportunity to give their views in writing or  
16 orally regarding proposed additions for amendments to or repeal  
17 of any rule or regulation under the Boards authority.

18 The Open meetings Act Section -- Section 10-15-1  
19 (inaudible) mandates that this Board take action on the  
20 proposed rules that are properly convened open meeting. Due to  
21 the Covid 19 Public Health State of Emergency, this Hearing is  
22 being held on-line via the Zoom platform. Let the record  
23 reflect that Zoom includes both audio and video functions.  
24 Sections all participants can be observed audible and visually.

25 The New Mexico Lobbyist Regulation Act regulates

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1 activities before Boards and Commissions in Rule making  
2 proceedings contact the Secretary of State's Office for  
3 information and registration.

4 Public Notice of this Hearing was advertised in New Mexico  
5 register on October 13<sup>th</sup> 2021. On the New Mexico Sunshine  
6 Portal on October 14<sup>th</sup> 2021 and on the Boards Website and the  
7 Bulletin Board at the Board Office on October 15<sup>th</sup> 2021.

8 Copies have been available from the Board Office since the  
9 (inaudible) were published and are available to the Public  
10 attending this Hearing. Copies of the proposed rules were  
11 available from the Board Office and the Board Website.

12 Assisting with the Hearing today is Mr. Perry Valdez,  
13 Executive Director of the Board and Ms. Valerie Joe, Assistant  
14 Attorney General and Legal Counsel for the Board. Mr. Valdez,  
15 or Ms. Joe do you have anything further to add regarding  
16 advertisement for Today's Hearing?

17 MS. VALERIE JOE: Sorry couldn't find my un-mute button  
18 and this is --

19 MR. TONANDER: I see you struggling for the mute  
20 button, yes.

21 MS. VALERIE JOE: This is Valerie Joe. Just so that  
22 everyone is aware, the Rule -- the Uniform Licensing Act does  
23 require that the Board publish the Notice of the Rule Making  
24 Hearing in the -- in a -- what's called a newspaper of general  
25 circulation within the State.

1           Unfortunately, that was not done so we just wanted to be  
2 very upfront and clear that unfortunately that was not done and  
3 I believe also the State rules require that the legislative  
4 Finance Committee also be made aware and I believe also that  
5 may not have been done so, we are going through this process to  
6 make sure that the Board knows what it is doing so that it can  
7 be adopted in the proper way, that's all I have to say right  
8 now.

9           Is there any questions Presiding Officer, please let me  
10 know.

11           MR. TONANDER:           Ms. Joe, is my understanding correct  
12 then, that although we will conduct the remainder of this  
13 meeting in the style of a Public Hearing we will in fact need  
14 to correctly advertise and schedule another Public Hearing for  
15 a future date to complete the Rule Making Process?

16           MS. VALERIE JOE:       Yes, it seems like we've done most of  
17 what needs to be done but there few boxes that need to be  
18 checked so, this is kind of the first rule to make sure  
19 everyone knows how to do this smoothly and then we can do it  
20 formally and adopt it in the manner that Uniform Licensing Act  
21 and the State's Rules Act require the next go around.

22           MR. TONANDER:           Great, thank you. Mr. Valdez?

23           MR. VALDEZ:            Yes.

24           MR. TONANDER:           At this point much of -- much of my  
25 script I will continue with but a lot of the subsequent slides

1 that you have are not covered within the script. If you would  
2 like to go through those portions of it now, I think this would  
3 probably be a good time.

4 MR. VALDEZ: Alright.

5 MR. TONANDER: Thank you.

6 MR. VALDEZ: This is an electronic meeting in lieu  
7 of a Public Assembly, however, it is still a Public Meeting  
8 conducted pursuant to the New Mexico Open Meeting Act NMSA  
9 1978, Sections 10-15-1 to 4.

10 As advertised with the video and telephonic link to allow  
11 the public to participate electronically as well as through any  
12 advance email communications through -- through myself, the  
13 Executive Director, Mr. Valdez.

14 The public portions will be recorded and posted on the  
15 Board's website. All members of the Board participating  
16 remotely must identify themselves whenever they speak and must  
17 be clearly audible.

18 Members should avoid speaking over one another as much as  
19 possible and if you could please turn off -- turn your -- turn  
20 off your video feed when not participating in the Board's  
21 discussion. Oh and -- excuse me that one -- please direct all  
22 comments or questions to myself via Perry Message and I will  
23 monitor and communicate with the Chairs required or Presiding  
24 Officer in this case. The Presiding Officer will address  
25 questions at his discretion.

1 Bandwidth and software limitation could restrict  
2 simultaneous access with other. For any person that is  
3 addressing the Board, if you are not cut off or having  
4 difficulties with access, please text or call myself at (505)  
5 570-7213, so that a resolution may be provided, which may  
6 include suspending the discussion of the Agenda item or until  
7 the communication issue is resolved.

8 Additionally, the Presiding Officer will suspend the  
9 meeting if a disruption in the audio or video occurs and you  
10 can call, call myself immediately if you have any issues with  
11 the connectivity. Be courteous and anyone engaging in  
12 appropriate contact will be removed.

13 Helpful requests if you're using both the telephone and  
14 the computer microphones please mute one of them or you'll get  
15 feedback. Please use the chat function or send an email  
16 through phone number or email address if you are a participant  
17 and please identify yourself when you begin speaking.

18 If you are testifying for an organization, include the  
19 affiliation and here's how to use the Chat function and I do  
20 know that we have a -- somebody had raised their hand -- Mr.  
21 Tonander, I'm not sure if you wish to have them speak or, or  
22 how --

23 MR. TONANDER: I, I noticed that as well. I was  
24 going to say given the fact that we don't have to exactly  
25 follow the formal format for this; I was going to give Ms. Mudd

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1 or Flue the chance to speak if she wishes. Do you still have a  
2 question? Do you still have a question?

3 MR. VALDEZ: Ms. Flue do you wish -- Ms. Flue, if  
4 you have a -- you wish to speak? We noticed you had your hand  
5 up.

6 MR. TONANDER: Not seeing anything at time, I'll --  
7 I'll (inaudible)

8 MR. VALDEZ: Mr. Presiding Officer, Melissa's Chat  
9 was, raising her hand to excuse herself to return to the  
10 regular meeting.

11 MR. VALDEZ: I believe that was Mr. Virtusio  
12 Sanchez.

13 MR. TONANDER: Have we -- as we haven't heard  
14 anything, I guess we can continue anyway, at this point. Next  
15 element is the attendance sheet. May I remind everyone to  
16 introduce themselves and enter their name and email into the  
17 chat function.

18 I presume that this may be accepted for the Board Members.  
19 Later on the attendance sheet will be entered as an exhibit  
20 into the recording of this hearing. Mr. Valdez, if you would  
21 to -- if there are late comers if you could tag them via chat  
22 or other mechanisms so that they understand what they have to  
23 do to -- that would be great. And for that matter Mr. Valdez,  
24 would you mind taking the role?

25 MR. VALDEZ: (inaudible)



1 UNKNOWN: Here.

2 MR. VALDEZ: Yes. Karl Tonander?

3 MR. TONANDER: Here.

4 MR. VALDEZ: Ron Bohannan?

5 MR. BOHANNAN: Here.

6 MR. VALDEZ: David Cooper?

7 MR. TONANDER: I know that --

8 MR. VALDEZ: Mr. Cooper?

9 MR. TONANDER: -- did not hear you, David.

10 MR. VALDEZ: Okay, he's present. Dr. Gerstle?

11 DR. GERSTLE: Here.

12 MR. VALDEZ: Stephen Ney?

13 MR. NEY: Here.

14 MR. VALDEZ: Karen Nichols?

15 MS. NICHOLS: Here.

16 MR. VALDEZ: Dr. Ahmed Elasksher?

17 DR. ELASKSHER: (No audible response)

18 MR. VALDEZ: Maxine McReynolds?

19 MS. MCREYNOLDS: Here.

20 MR. VALDEZ: Mr. Chair, we have a quorum, we are

21 missing Dr. Elasksher and if I'm not mistaken I believe he said

22 he would be -- he would be late to the meeting.

23 MR. TONANDER: Okay, thank you. Let the record show

24 also that Valerie Joe the Assistant Attorney General, Legal

25 Counsel of the Board is present to advise the Board. For the

1 record, will the members of the audience please introduce  
2 themselves and state their affiliation if any? Perhaps Mr.  
3 Perry as I'm looking at this, you first?

4 MR. PERRY: Jason Perry.

5 MR. TONANDER: And affiliation if any, sir?

6 MR. PERRY: NMSU.

7 MR. TONANDER: Great, thank you.

8 MR. HOLDER: Brooke Holder retired from (inaudible)  
9 New Mexico State University.

10 MR. TONANDER: Good Morning Mr. Brooke Holder, I will  
11 say that you're such a consistent attending these. I didn't  
12 even put you down in my notes as an outsider so, welcome again.

13 MR. HOLDER: I'll take that as a compliment.

14 MR. TONANDER: You should. You should I appreciate  
15 your dedication, honestly. Is there anyone else out there that  
16 I can't necessarily tell the phone number that's shown there  
17 who is on that, can you tell Perry?

18 MR. VALDEZ: Will individual with phone number 543  
19 begins in 543, if they could please indicate who they are for  
20 the record?

21 MR. TONANDER: I guess its 433 actually, (505) 433-  
22 5362?

23 MR. VALDEZ: Yes.

24 MR. TONANDER: Anybody willing to claim that?

25 MR. VALDEZ: We heard from David Cooper that that

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1 is him so a --

2 MR. TONANDER: Awesome. I think -- so David Cooper,  
3 does that mean that you have 3 connections on here at this  
4 point?

5 MR. VALDEZ: Yes.

6 MR. TONANDER: Just so I'm -- okay, excellent. Thank  
7 you. Looking quite distinguished today, Mr. Cooper, by the  
8 way.

9 Alright, well great if as mentioned earlier though, please  
10 send your name and email to the chat option through the on-line  
11 meeting platform for those that are participating outside and  
12 we will make sure and gather that information.

13 So, continuing on, on the practice round as Ms. Joe had  
14 noted. This is a formal proceeding or a semi-formal proceeding  
15 as I appear to be leading it. A (inaudible - audio feedback)  
16 proceedings the Court Reporter will (inaudible) proceeding in  
17 the transcript will become part of the Rule Hearing record.

18 Because of circumstances beyond the Boards control, the  
19 Court report has been detained and at least a portion of this  
20 meeting will instead scribe from the recording. (inaudible)  
21 persons recognized to address the Board are asked to do the  
22 following.

23 Identify yourself for the record each time you address the  
24 Board, only speak one person at a time, in other words no  
25 person to interrupt another person who is speaking, just

1 extremely difficult to track information so as to not to  
2 confuse anyone this rule is only one person speaking at a time  
3 applies to everyone on the call including the person making the  
4 comments, Board Staff and Board Members.

5 There will -- there will be no exceptions to this rule  
6 because of the nature of this Hearing, Board Members shall  
7 refrain from talking to each other during this hearing and then  
8 speak loudly and clearly, articulately the recorder and or the  
9 recording can pick up your comments.

10 This hearing will be conducted in the following manner.  
11 Mr. Valdez will present exhibits to the Board. I as the  
12 Presiding Officer will rule on the admissibility of the  
13 exhibits offered for admission allowing questions from members  
14 of the Board.

15 Exhibits admitted into evidence are available for review  
16 by members of the public after Mr. Valdez offers exhibits and  
17 their admission has been rule upon I will open the hearing for  
18 comments from the audience.

19 We'll proceed in numerical sequence through each proposed  
20 (inaudible). We will address only one rule at a time; however  
21 you may refer to other rules that reasonably relate to the rule  
22 being discussed or which relate to your comments.

23 We have a show of hands of the number of people who intend  
24 to testify or comment on the proposed rule and you can use the  
25 raised hand feature since it looks like it's only Brooke Holder

1 and Mr. Perry.

2 Do, either of you intend to comment, Mr. Brooke Holder you  
3 do? Mr. Perry, you --

4 MR. HOLDER: Yes.

5 MR. TONANDER: -- excellent, thank you. Mr. Perry,  
6 do you intend to do any commenting today?

7 MR. PERRY: I do not.

8 MR. TONANDER: Okay, thank you. Great, so after a  
9 person is testifying or offering comment, I will permit Board  
10 Members to question that person, any member of the audience  
11 wishing to question that person may do so after recognize --  
12 being recognized by me, the Presiding Officer, each person  
13 recognize to speak shall identify him or herself for the  
14 record.

15 At the conclusion of gathering public comment, this rule  
16 hearing, the Board will hold its meeting where they will  
17 conduct discussions and take final actions such as amending,  
18 adopting, modifying, tabling and so forth on the proposed  
19 rules.

20 This Public Hearing is now officially opened, Mr. Valdez  
21 at this time do you have any exhibits to introduce into  
22 evidence?

23 MR. VALDEZ: Well, Mr. Board -- Mr. Presiding  
24 Officer, I have the following exhibits to enter into evidence.  
25 Exhibit 1, the Notice of Public Rule Hearing and Regular Board

1 Meeting published in New Mexico Register on October 13<sup>th</sup> 2021.

2 Exhibit 2, the Notice of Public Rule Hearing and Public  
3 Board Meeting published in New Mexico Sunshine Portal on  
4 October 14<sup>th</sup> 2021. Exhibit 3, the memorandum to interested  
5 parties dated November 15<sup>th</sup> 2021.

6 Exhibit 4, proposed Rule Option number 1 for Part 2 of  
7 12.8 NMAC entitled minimum standards for surveying in New  
8 Mexico. Exhibit 5 proposed Rule Option 2 for Part 2 of 12.8  
9 NMAC entitled minimum standards for surveying in New Mexico.

10 Exhibit 6, proposed rule for Part 1 of 16.39 NMAC entitled  
11 General Provisions. Exhibit number 7, proposed rule for Part 3  
12 of 16.39 NMAC entitled Engineer -- Engineering Licensure.

13 Exhibit 8, proposed rule for Part 5 of 16.39 NMAC entitled  
14 survey. Exhibit number 9, proposed rule for part 6 of 16.39  
15 NMAC entitled Licensure for military service members and  
16 Exhibit number 10, proposed rule for Part 7 of 16.39 NMAC  
17 entitled Miscellaneous Procedures.

18 MR. TONANDER: Thank you Mr. --

19 MR. VALDEZ: And at this time I'm -- Presiding  
20 Officer --

21 MR. TONANDER: Uh-huh.

22 MR. VALDEZ: -- there are -- we have not received  
23 of Public Comments, written Public Comments on the proposed  
24 Amendments.

25 MR. TONANDER: Thank you, Mr. Valdez. Are there any

1 questions from the Board Members regarding the exhibits  
2 presented by Mr. Valdez?

3 MR. SPIRA: Mr. Presiding Officer?

4 MR. TONANDER: Yes, sir.

5 MR. SPIRA: This is Cliff Spira. Perry -- Perry  
6 failed to mention that the first two exhibits number 4 and 5  
7 are options, thank you.

8 MR. TONANDER: Okay. Yeah, so there -- they are  
9 alternative language for the same part, is that correct?

10 MR. VALDEZ: That is correct.

11 MR. TONANDER: Okay, excellent. Thank you for  
12 clarifying that as well (inaudible). So, Exhibits 1 through 10  
13 are hereby admitted into the record. Mr. Valdez, are there any  
14 other Exhibits of any form to enter into the record at this  
15 time?

16 (Exhibits 1 through 10 admitted)

17 MR. VALDEZ: Mr. Presiding Officer, the attendance  
18 sheet would be entered into the -- into the record as an  
19 Exhibit.

20 MR. TONANDER: At, at the conclusion of the hearing,  
21 I believe, correct?

22 MR. VALDEZ: Correct.

23 MR. TONANDER: Excellent, thank you. Any persons  
24 wishing to provide their comment and who wish to submit any  
25 document with their comment shall do so when they are

1 recognized to testify. Each document shall be introduced as an  
2 exhibit into the record. Board Members will be permitted to  
3 ask questions before I rule on the admissibility of the  
4 evidence.

5 Upon admissibility each exhibit will be marked and  
6 numbered and entered into the record. At this time each  
7 proposed Rule will be introduced into the record. I will open  
8 the floor to members of the audience for comments on each rule.

9 Members of the Board or the audience may question each  
10 person providing comment upon being recognized to speak.  
11 However, any discussion by the Board will be held during the  
12 meeting following the conclusion of this Rule Hearing.

13 First is the proposed Rule Option 1 for Part 2, minimum  
14 standards for surveying in New Mexico. This is 12.8.2.9 NMAC  
15 Boundary Survey. The proposed language modifies the Boundary  
16 Survey requirements including the requirements pertaining to  
17 Basis of Bearing.

18 Does anyone wish to comment on the first Option for Part 2  
19 of the minimum standards for Surveying in New Mexico?

20 MR. HOLDER: Yes.

21 MR. TONANDER: I, I was expecting that Mr. Brooke  
22 Holder, I was looking squarely at you. Please identify  
23 yourself for the record?

24 MR. HOLDER: Okay, my name is Earl Brooke Holder,  
25 I'm retired from teaching, surveying at New Mexico State



1 University and I am a strong supporter of the function of Board  
2 (inaudible) and I commend each member of the Board for their  
3 dedication of service to Board.

4 Years ago when an item came up in minimum standards that  
5 was defective, I raised my objection and it has taken 5 years  
6 until now and I applaud the Board for bearing with me and I  
7 appreciate the fact that the Board is going to rectify that  
8 defect in the minimum standards and as I understand Option 1 is  
9 the preferred option, thank you.

10 MR. TONANDER: Thank you. Board Members are there  
11 any questions of this -- of Mr. Brooke Holder.

12 MR. SPIRA: Mr. Presiding Officer, this is Cliff  
13 Spira.

14 MR. TONANDER: Yes.

15 MR. SPIRA: The question for Mr. Brooke Holder,  
16 the second item which would be Exhibit number 5 provides the  
17 same thing but modifies the basis of bearing pertaining to more  
18 than boundary surveys do you have any objection to that?

19 MR. HOLDER: I have read the exhibits that were  
20 available to me and I do not have them in front of me right  
21 now. I do not object to the inclusion of the basis of bearing  
22 and the boundary survey portion of the changes to the minimum  
23 standards.

24 MR. SPIRA: Option 2 or Option 1 is your  
25 preference?

1 MR. HOLDER: What is the difference?

2 MR. SPIRA: The first option was strictly from the  
3 letter from the NSBS or NMPS, New Mexico Professional Surveys  
4 and I believe your initial comments which say that in our rules  
5 for minimum standards, only the boundaries survey portion would  
6 be affected by the language to eliminate elevation and the  
7 other particulars of the basis of bearing.

8 The Rules committee of the Board looked at that and  
9 provided Option 2, which says that the Basis of Bearing should  
10 apply to not only boundaries surveys but also boundaries  
11 surveys, control surveys, all of the classifications of  
12 surveying except ILRs and unclassified surveys at the  
13 discretion of the surveyor. It's the same language but it  
14 applies to all surveys.

15 MR. HOLDER: I think that's appropriate.

16 MR. SPIRA: Thank you.

17 MR. TONANDER: Are there any other Board Members who  
18 wish to question Mr. Brooke Holder? Hearing none; are there  
19 any audience members that wish -- wish to question Mr. Brooke  
20 Holder? Hearing none, are there any other questions or  
21 comments on this first item? Hearing none; moving on.

22 Second is the proposed Rule Option 2, for Part 2 minimum  
23 standards for surveying in New Mexico 12.8.2.7 NMAC Boundary  
24 Surveying, the proposed language modifies the definition of  
25 Basis of Bearings in Subsection Q, 12.8.2.9 NMAC Boundary

1 Surveying.

2 The proposed language modifies the Boundary Survey  
3 requirements including the requirements pertaining to basis of  
4 Bearings. Would anyone wish to comment on the second Option  
5 for Part 2 of the minimum standards for surveying in New  
6 Mexico? I hear and see nothing. There moments any Board  
7 Members wish to provide input? Excellent; moving on.

8 Third is the proposed rule for Part 1, General Provisions  
9 16.39.1.17 NMAC Status of Licensure, the proposed language  
10 provides that an intern certification will be automatically  
11 superseded by the professional license clarifying that a  
12 licensee who requests for retired or inactive status cannot be  
13 improve -- approved unless the licensee does not have any  
14 pending complaints, pending litigation and has completed any  
15 imposed disciplinary actions and modifying the requirements of  
16 the reactivation of an inactive license of 6 years or more.

17 Would anyone wish to comment on Part 1, General  
18 Provisions? I hear or see nothing on this part, continuing on.

19 Fourth is the proposed rule for part 3 engineering  
20 licensure disciplines, applications, exams, practice, seal of  
21 license endorsements 16.39.3.7 NMAC definitions, the proposed  
22 language adds definitions for electronics signature, electronic  
23 experience and signature.

24 16.39.3.11 NMAC Practice of Engineering moved and created  
25 subsections to clarify the subject matter related to the

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1 practice of engineering and the industrial exemption in  
2 Subsections per an F and per an G respectively.

3 16.39.3.12 NMAC Seal of Licensee, the proposed language  
4 clarifies when more than one electronic signature is required.

5 16.39.3.13 NMAC Endorsements, the proposed language  
6 incorporates additional grounds for (inaudible) for engineers  
7 License and other jurisdictions as required by Section 61-23-  
8 14.1 NMSA 1978 of the Engineering and Surveying Practice Act,  
9 would anyone wish to comment on Part 3?

10 MR. BOHANNAN: Mr. Chair, Ron Bohannan.

11 MR. TONANDER: Mr. Bohannan?

12 MR. BOHANNAN: Mr. Chair, I just to enter into the  
13 record that the purpose of these rules changes is that this  
14 will help expedite our review of licensure and mobility of  
15 applications and applications from, from coming from out of  
16 State as directed by the Governor's Office and legislature to,  
17 to promote that.

18 This area is probably where we spend most of our normal  
19 Board time and these rules will help the Board to remain  
20 consistent with the application of the Act, thank you, very  
21 much.

22 MR. TONANDER: Thank you, for your input. Will  
23 anyone else care to comment? Hearing and seeing no indication,  
24 we'll move on.

25 Fifth is the proposed rule for part 5, Survey Application

1 Examination practice of Surveying and Seal of Licensee.

2 16.39.5.7 NMAC Definitions, the proposed language adds the  
3 definition for NCEES.

4 16.39.5.8 NMAC Application, Survey or Intern and  
5 Professional Surveyor. The proposed language aligns the rules  
6 with Section 61-23-17.4(A) NMSA 1978 of the Engineering Survey  
7 and Practice Act which changed the experience requirement for  
8 Licensure as a Professional Surveyor and in accordance with  
9 Section 14-4-5.7 of the State Rules Act Sections 14-4-1 to -11  
10 NMSA 1978.

11 16.39.5.10 NMAC Practice of Surveying, the proposed  
12 language creates a new sub Section related to the Industrial  
13 Exemption in Subsection (G).

14 16.39.5.10 NMAC Seal of Licensee, the proposed language  
15 clarifies with more than one electronic signature is required.  
16 Would anyone wish to comment on Part 5?

17 DR. GERSTLE: Mr. Presiding Officer, there were --

18 MR. TONANDER: Yes, Mr. Gerstle --

19 DR. GERSTLE: -- there was a spelling mistake; do we  
20 need to worry about that kind of thing?

21 MR. TONANDER: I will hold that for just a second,  
22 please identify yourself for the record.

23 DR. GERSTLE: Oh, I'm sorry; my name is Walter  
24 Gerstle, Board Member.

25 MR. TONANDER: Okay, thank you. Ms. Joe, I see you

1 turned your camera on? It seems like you might have an answer?

2 MS. VALERIE JOE: Yes, it can't hurt to add that now so  
3 that we can make sure that we note that for the future and  
4 perhaps when this gets re-noticed, there is such a Board Vote,  
5 then it can be changed now as opposed to later on.

6 MR. TONANDER: Dr. Gerstle, would you point out --

7 DR. GERSTLE: Yes.

8 MR. TONANDER: -- yes, thank you.

9 DR. GERSTLE: Yeah, so in the very first change that  
10 was in 16.39.5.7 Definitions in item H, NCES refers -- that's  
11 misspelled there.

12 MR. TONANDER: Mr. Valdez, I see you taking notes, is  
13 that correct?

14 MR. VALDEZ: Correct.

15 MR. TONANDER: Okay. Thank you Dr. Gerstle; s, is  
16 that the only typo you noticed?

17 DR. GERSTLE: Yes, yes.

18 MR. TONANDER: Okay. Thank you. Are there any other  
19 comments on this Section? Hearing and seeing none, we'll  
20 continue to move on.

21 Sixth is the proposed rule for Part 6 Licensure for  
22 Military Service Members, Spouses and Veterans. 16.39.6.7 NMAC  
23 Definitions, the proposed language modifies the definition for  
24 a recent veteran and adds definitions for Spouse, Child and  
25 Licensing Fee.

1           16.38.6.8 NMAC Application Requirements. The proposed  
2 language requires certain documentation to qualify for  
3 expedited Licensure for Military Service Member, Spouses and  
4 Veterans.

5           The (inaudible) and the License fee for the first 3 years  
6 and the requirement of the Board to issue the expedited license  
7 within 30 days of the completed application pursuant to the  
8 Uniform Licensing Act Sections 61-1-31.1 and 61-1-34 NMSA 1978.  
9 Would anyone wish to comment on Part 6?

10           MR. BOHANNAN:           Mr. Presiding Officer, Ron Bohannan.

11           MR. TONANDER:           Yes, Mr. Bohannan.

12           MR. BOHANNAN:           Mr. Presiding Officer, again this is  
13 formalizing the -- the protocol that the Board has been using  
14 for approximately a year, a year and a half. It formalize how  
15 to expedite the military members and their spouses through the  
16 permitting process and still be in compliance with the Act,  
17 thank you very much.

18           MR. TONANDER:           Thank you, for the context; any  
19 further comments or questions? Seeing none, we will move on.  
20 Final proposed Rule is part 7, Miscellaneous Procedures for  
21 revocation, suspension, imposition of fines, re-issuance of  
22 certifications and disciplinary action.

23           16.39.7 NMAC the proposed language adds issuance to the  
24 title so it would read part 7, Miscellaneous procedures for  
25 "issuance" emphasized -- revocation, suspension, imposition of

1 fines, re-issuance of certifications and disciplinary action.

2 16.39.7.7 NMAC definitions, the proposed language adds the  
3 definition of disqualifying criminal conviction.

4 16.39.7.8 NMAC revocations, suspension, imposition of  
5 fines, re-issuance of licenses and certifications and  
6 disciplinary action. The proposed language adds issuance to  
7 the title of this section before the word revocation and  
8 subsection (F) is added to comply with the statutory exchanges  
9 to the criminal offender employment act and the Uniform  
10 Licensing Act.

11 The Rule also adds new language governing the Boards  
12 consideration of criminal convictions in applications and  
13 disciplinary matters pursuant to Section 61-1-36 of the Uniform  
14 Licensing Act listing the specific criminal convictions that  
15 could disqualify an applicant for receiving a license on the  
16 basis of a previous felony conviction and adding related  
17 limitations on the Boards consideration of such convictions.

18 The purpose of the rule is to ensure that applications and  
19 complaints against licensee's and certification holders are  
20 evaluated and are adjudicated in a fair and impartial manner  
21 that complies with due process while ensuring the public's  
22 continue confidence in the profession. Would anyone with to  
23 comment on Part 7 Miscellaneous Procedures?

24 DR. GERSTLE: This is Walter Gerstle, Mr. Providing  
25 -- Mr. Officer. Presiding Officer -- I, I have a couple of

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1 minor corrections.

2 First of all there should be a comma after issuance in  
3 the, in the main title here. So, issuance, revocation and then  
4 also the next change in 16.39.7.7, it should be disqualifying  
5 criminal conviction, not convention.

6 MR. TONANDER: Thank you, I will, I will wait here  
7 until I have acknowledgment from Mr. Valdez that he has  
8 captured those two comments.

9 MR. VALDEZ: Mr. Presiding Officer, we have  
10 captured those two.

11 MR. TONANDER: Thank you. Would anyone else wish to  
12 comment on Part 7?

13 MR. BOHANNAN: Mr. Presiding Officer, Mr. Bohannan.

14 MR. TONANDER: Yes.

15 MR. BOHANNAN: I just for the sake of the record,  
16 this will bring the Rules and the Act and to compliance with a  
17 recent legislative action on pertaining to criminal acts.

18 MR. TONANDER: Thank you.

19 MR. BOHANNAN: Thank you.

20 MR. TONANDER: Thank you very much for the context  
21 again. Are there any other comments on Part 7? Has everyone  
22 present provided their name and email address in the chat  
23 function, Mr. Valdez?

24 MR. VALDEZ: Mr. Presiding Officer, there were a  
25 few individuals who are attending, who have since left the Rule

1 Hearing, they did not provide us their email address. We do  
2 have Mr. Brooke Holder's so we --

3 MR. TONANDER: How about Mr. Perry?

4 MR. VALDEZ: Oh.

5 MR. TONANDER: You still see him on.

6 MR. VALDEZ: Mr. Perry if you could please provide  
7 us your email address in the chat function I would -- we'd  
8 appreciate that.

9 MR. TONANDER: Thank you and from my observation, I  
10 believe that the others that have initially attended dropped  
11 off really prior to the start of the hearing so, that's --

12 MR. VALDEZ: Okay.

13 MR. TONANDER: -- a complete record great. At this  
14 time the attendance sheet prepared by Mr. Valdez shall be  
15 marked as an Exhibit and entered into the record?

16 MR. BOHANNAN: Mr. Presiding Officer, Ron Bohannan.

17 MR. TONANDER: Yes, sir.

18 MR. BOHANNAN: Perry, do you have a date for when we  
19 will have a follow up -- a rough date for when we'll have a  
20 follow up Hearing?

21 MR. VALDEZ: Yes, Mr. Perry Valdez --

22 MR. TONANDER: Mr. Valdez, could I actually ask for  
23 this to be deferred out of the hearing portion into the  
24 meeting?

25 MR. VALDEZ: Correct.

1 MR. TONANDER: I, I see Mr. Joe's camera came on and  
2 she was nodding so I'll take it that that's the appropriate  
3 yes, no -- the appropriate matter to deal with it but I, I  
4 acknowledge your interest in that topic, I have the same.

5 MR. BOHANNAN: It's alright.

6 MR. TONANDER: Thank you.

7 MR. BOHANNAN: Thank you Mr. Presiding Officer, no  
8 other comments.

9 MR. TONANDER: Thank you sir. So, I asked -- the  
10 admission of the attendance sheet as Exhibit 11, okay?

11 MR. VALDEZ: This is Perry Valdez, Presiding  
12 Officer. I ask admission of the Attendance Sheet as Exhibit  
13 number 11.

14 MR. TONANDER: Thank you. Do the Board Members have  
15 any questions about the admission of that attendance sheet?  
16 Hearing and seeing none, Exhibit number 11 is hereby admitted  
17 into the record.

18 (Exhibit 11 admitted)

19 MR. TONANDER: The comments submitted in a discussion  
20 heard during the Rule Hearing will be considered and discussed  
21 by the Board during the Regular Open Meeting following this  
22 Rule Hearing. The Board will formally vote on the proposed  
23 rules at that time or not as the case might be today.

24 We'll at least informally discuss them. Any rules adopted  
25 by the Board will be filed at State Records and Archives in

1 accordance with the State's Records Act and New Mexico  
2 registered publication deadlines.

3 The adopted rules will become effective 30 days after they  
4 had filed, after there are filed at State's Records and  
5 Archives it will be published in the New Mexico Register. Any  
6 Rules not adopted may be postponed for future discussion at a  
7 definite time in the future or maybe postponed indefinitely.

8 I would like to thank all Board Members and everyone else  
9 present for their participation and attendance today. We will  
10 take a brief break to allow staff to setup for the regular  
11 meeting and we'll begin the regular meeting immediately  
12 following. Let the record of this hearing indicate that we are  
13 now closed and the Hearing was adjourned at 9:47 MST a.m. I  
14 thank everyone for their time and participation today.

15 (End of audio recording)

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## TRANSCRIPTIONIST'S CERTIFICATE

I, Karen Baca, certified transcriptionist, do hereby certify that the foregoing is a true and correct transcript of the proceeding had in the within titled and numbered cause on the date herein set forth.

IT IS FURTHER CERTIFIED that Paul Baca Professional Court Reporters is neither employed by nor related to any of the parties or attorneys in this case, and that this firm has no interest whatsoever in the final disposition of this case in any court.

/s/ Karen Baca

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