



THE MINNESOTA BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING,  
LANDSCAPE ARCHITECTURE, GEOSCIENCE & INTERIOR DESIGN

May 13, 2015

Legislative Reference Library  
645 State Office Building  
100 Constitution Avenue  
St. Paul, Minnesota 55155

In the matter of:

Proposed New Rules Governing Temporary Military Certificates, Minnesota Rules,  
1800.0450;

Proposed Amendment to Rules Relating to Housekeeping Updates, Minnesota  
Rules, 1800.0300, 1800.0400, 1800.0600, 1800.0800, 1800.1000, 1800.2100, 1800.2200,  
1800.3505 and 1800.5200; and

Proposed Repeal of Rules Relating to Land Surveying Housekeeping Updates, Minnesota  
Rules, 1800.3800 and 1800.3850.

Revisor's ID Number R-04312

Dear Librarian:

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design intends to adopt rules governing temporary military certificates and housekeeping updates. We plan to publish a Dual Notice in the June 1, 2015 State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Board is sending the Library an electronic copy of the Statement of Need and Reasonableness prior to mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 651-757-1511.

Yours very truly,

A handwritten signature in black ink that reads "Andrea Barker". The signature is written in a cursive style.

Andrea Barker  
Assistant Executive Director

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**Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design**

**STATEMENT OF NEED AND REASONABLENESS**

**Proposed New Rules Governing Temporary Military Certificates, Minnesota Rules, 1800.0450;**

**Proposed Amendment to Rules Relating to Housekeeping Updates, Minnesota Rules, 1800.0300, 1800.0400, 1800.0600, 1800.0800, 1800.1000, 1800.2100, 1800.2200, 1800.3505 and 1800.5200; and**

**Proposed Repeal of Rules Relating to Land Surveying Housekeeping Updates, Minnesota Rules, 1800.3800 and 1800.3850.**

**Revisor's ID Number R-04312**

**INTRODUCTION**

The nature of the proposed new rules of the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design is to include new language pertaining to active duty military members, their spouses, and military members who have received an honorable or general discharge within two years of application for certification. The new rules are intended to expedite the process for which individuals meeting certain requirements can obtain a license or certificate in Minnesota for the professions of architecture, engineering, land surveying, landscape architecture, geology, soil science and interior design. These individuals will receive a temporary license or certificate, which will allow practice and/or use of title for six months, while the applicant completes the full application process.

The proposed rules also include amendments that are "housekeeping" in nature. These housekeeping modifications do not make any substantive changes to the requirements for application, licensure or certification, but rather remove obsolete language, update references and update the name of the organization "National Council for Interior Designer Qualification ('NCIDQ') to "Council for Interior Designer Qualification ('CIDQ') throughout Chapter 1800.

**ALTERNATIVE FORMAT**

Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Andrea Barker at the Board of Accountancy, 85 E. 7<sup>th</sup> Place, Suite 125, St. Paul, MN 55101, 651-757-1511, Fax: 651-282-2644, and email: [andrea.barker@state.mn.us](mailto:andrea.barker@state.mn.us). TTY users may call the Board at (800) 627-3529.

**STATUTORY AUTHORITY**

During the 2014 Legislative Session, the Legislature mandated each licensing board to establish a temporary military certificate and granted authority to adopt rules to carry out the provisions of the statute. The Board's proposed new rules are made under the authority in Minnesota Statutes section 197.4552, subdivision 3. The 18-month rule applies to the proposed new rules.

## **197.4552 EXPEDITED AND TEMPORARY LICENSING FOR FORMER AND CURRENT MEMBERS OF THE MILITARY.**

Subdivision 1. **Expedited licensing processing.** Notwithstanding any other law to the contrary, each professional licensing board defined in section 214.01, subdivisions 2 and 3, shall establish a procedure to expedite the issuance of a license or certification to perform professional services regulated by each board to a qualified individual who is:

- (1) an active duty military member;
- (2) the spouse of an active duty military member; or
- (3) a veteran who has left service in the two years preceding the date of license or certification application, and has confirmation of an honorable or general discharge status.

Subd. 2. **Temporary licenses.** (a) Notwithstanding any other law to the contrary, each professional licensing board defined in section 214.01, subdivisions 2 and 3, shall establish a procedure to issue a temporary license or certification to perform professional services regulated by each board to a qualified individual who is:

- (1) an active duty military member;
- (2) the spouse of an active duty military member; or
- (3) a veteran who has left service in the two years preceding the date of license or certification application, and has confirmation of an honorable or general discharge status.

(b) A qualified individual under paragraph (a) must provide evidence of:

- (1) a current, valid license, certificate, or permit in another state without history of disciplinary action by a regulatory authority in the other state; and
- (2) a current criminal background study without a criminal conviction that is determined by the board to adversely affect the applicant's ability to become licensed.

(c) A temporary license or certificate issued under this subdivision shall allow a qualified individual to perform regulated professional services for a limited length of time as determined by the licensing board. During the temporary license period, the individual shall complete the full application procedure as required by applicable law.

Subd. 3. **Rulemaking.** Each licensing board may adopt rules to carry out the provisions of this section.

Under these statutes, the Board has the necessary statutory authority to adopt the proposed rules.

The proposed amendments to rules related to housekeeping updates are made under the statutory authority described in Minnesota Statutes section 326.06. The Legislature has not revised this statutory authority since it was granted, so Minnesota Statutes, section 14.125 does not apply.

326.06 General powers and duties of Board.

Each member of the board shall receive a certificate of appointment from the governor, and, before beginning a term of office, shall file with the secretary of state the constitutional oath of office. The board shall adopt and have an official seal, which shall be affixed to all licenses granted; shall make all rules, not inconsistent with law, needed in performing its duties; and shall fix standards for determining the qualifications of applicants for certificates, which shall not exceed the requirements contained in the curriculum of a recognized school of architecture, landscape architecture, engineering,

geoscience, or interior design. The board shall make rules to define classes of buildings with respect to which persons performing services described in section 326.03, subdivision 2, may be exempted from the provisions of sections 326.02 to 326.15, by a finding of no probable risk to life, health, property or public welfare.

## **BACKGROUND INFORMATION**

**Temporary Military Certificates:** The rules will establish the procedure for the individuals specified by the Legislature during the 2014 Legislative Session to obtain a temporary license or certificate for architecture, engineering, land surveying, landscape architecture, geology, soil science and interior design. (See Minnesota Statutes section 197.4552 under "Statutory Authority" on page 2.)

**Housekeeping modifications:** Each year, in compliance with Minnesota Statutes, section 14.05, subdivision 5, the Board submits a report to the Governor and legislators on obsolete, unnecessary and duplicative rules contained within Chapters 1800 and 1805. Most of the rules identified as "housekeeping updates" were noted in the Board's 2014 report.

## **REGULATORY ANALYSIS**

**"(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule"**

The classes of persons affected by and benefiting from the proposed new rules for temporary military certificates are active duty military members, spouses of active duty military members and veterans who have been discharged within two years of application for a license or certificate. The rules establish a procedure for these individuals to quickly obtain a certificate to practice in Minnesota while concurrently completing the formal application process.

The classes of persons who will probably be affected by, as well as benefit from, the proposed housekeeping rule modifications are generally all applicants, licensees, and certificate holders. These changes update the name of the Council of Interior Design Qualification, remove obsolete language and clean up references to modified statutes and rules.

**"(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues"**

The probable costs to the Board include the costs associated with rulemaking in general. Additionally, to establish a procedure for issuing temporary military certificates, modifications must be made to the Board's database and internal procedures. The cost for database modifications is estimated to be minimal (less than \$1,000) and will not have any effect on state revenues. The Board does not anticipate an increase or decrease in cost for enforcing the proposed rules.

The Board is charged with the implementation and enforcement of the proposed rules. As such, it does not anticipate any probable costs to any other agency or any effect on state revenues.

**"(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule"**

The purpose of the new rules for temporary military certificates is to establish the procedure mandated by statute. The purpose of the proposed rule modifications is to clean up existing language. No methods other than rule writing exist for achieving these goals.

**“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”**

No alternative methods appear to exist.

**“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”**

Fees for applicants, licensees and certificate holders are specified in statute. There are no probable costs for compliance with the proposed rules. No other governmental units or businesses will be affected by the rule modifications.

**“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”**

The consequences of not adopting the proposed rules include non-compliance with the Legislature’s mandate to create a procedure to issue temporary military certificates and keeping obsolete language.

**“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”**

No relationship exists between these rules and federal regulations.

**“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule. . . . ‘[C]umulative effect’ means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”**

The proposed rules cover areas that are not addressed by federal law or other Minnesota state laws. Therefore, this consideration is not applicable for these rules.

## **PERFORMANCE-BASED RULES**

To safeguard life, health and property, and promote the public welfare, the Board provides reasonable assurance that persons practicing the professions regulated by the Board are competent, ethical practitioners qualified through education, examination and experience. Additionally, as an official state licensing agency, the Board is charged with the responsibility of implementing those statutes and rules.

The proposed rule amendments embodied in this Statement of Need and Reasonableness emphasize superior achievement in meeting the Board’s regulatory objectives with maximum flexibility for the regulated party and the Board in meeting those goals. The Board has identified

language that is outdated for applicants, licensees, certificate holders and the public. It is critical that the Board identifies actual or potential areas of confusion on the path to licensure or renewal within its jurisdiction in order to meet its obligations to the public and regulated parties. To do otherwise creates difficulties for all interested parties – the public, members of the regulated profession, and the Board. The housekeeping updates ensure that the Board’s rules remain current and understandable.

The proposed new rules for temporary military certificates allow for maximum flexibility to the regulated parties and to the Board. Certain military personnel and their spouses already licensed as architects, professional engineers, land surveyors, landscape architects, professional geologists, professional soil scientists or certified interior designers in another jurisdiction can apply for and receive a temporary certificate in Minnesota, and thereby quickly begin to work. The applicant must then complete the “normal” application process and provide documentation of the education, examination and experience required for licensure or certification in Minnesota. If the Board finds that the applicant does not meet the minimum requirements for licensure or certification, the temporary permit expires and the applicant cannot continue to practice.

### **ADDITIONAL NOTICE**

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a letter dated May 12, 2015 by Administrative Law Judge Ann O’Reilly.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Chapter of the American Institute of Architects (“AIA”), the professional society representing architects regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Society of Professional Engineers (“MSPE”) and the American Council of Engineering Companies of Minnesota (“ACEC/MN”), the two largest professional societies representing professional engineers regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Society of Professional Surveyors (“MSPS”), the professional society representing land surveyors regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Association of County Surveyors (“MACS”), the group that represents land surveyors regulated by this Board who are working for Minnesota local county governments.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Chapter of the American Society of Landscape Architects (“ASLA-MN”), the professional society representing landscape architects regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Section of the American Institute of Professional Geologists (“AIPGMN”), the professional society representing professional geologists regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Association of Professional Soil Scientists (“MAPSS”), the professional society representing professional soil scientists regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Northland Chapter of the International Interior Design Association ("IIDA") and the Minnesota Chapter of the American Society of Interior Designers ("ASID"), the two professional societies representing certified interior designers regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Council of Architectural Registration Boards ("NCARB"), the national council representing architects regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Council of Examiners for Engineering and Surveying ("NCEES"), the national council representing professional engineering and land surveyors regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Council of Landscape Architectural Registration Boards ("CLARB"), the national council representing landscape architects regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Association of State Boards of Geology ("ASBOG"), the national council representing professional geologists regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Council of Soil Science Examiners ("CSSE"), the national council representing professional soil scientists regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Council for Interior Design Qualification ("CIDQ"), the national council representing certified interior designers regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Department of Veteran's Affairs, the state agency representing veterans.

The Board will also post the Dual Notice of Intent to Adopt and the proposed rule change on the Board's website.

A postcard notification of the proposed rule changes with the website address where recipients will find the Dual Notice of Intent to Adopt, official language of the proposed rule and SONAR will be mailed to all current licensees and certificate holders.

Our Notice Plan also includes giving notice required by statute. We will mail the proposed rules and the Notice of Intent to Adopt to everyone who has registered to be on the Board's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116.

Our Notice Plan did not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.

Our Notice Plan does not including notifying the Council on Affairs of Chicano/Latino People because the rules do not have a primary effect on Chicano/Latino people per Minnesota Statutes, section 3.922.

## **CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT**

As required by Minnesota Statutes, section 14.131, the Board will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Board's publishing the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Board will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

## **DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION**

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Board has determined that they do not because the rules pertain to individuals applying for licensure or certification by this Board and to individuals who are already licensed or certified by this Board, not to other entities. Compliance with the rules falls on these individuals. Enforcement of the rules falls solely on the Board.

## **COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

### **Agency Determination of Cost**

As required by Minnesota Statutes, section 14.127, the Board has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

The Board has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis sections on pages 3-4 of this SONAR.

## **LIST OF WITNESSES**

If these rules go to a public hearing, the Board may have the following potential witnesses for testimony in support of the need for and reasonableness of the rules:

- Mr. Carl Peterson, CPA, Public Member, Chair
- Ms. Mary Deeg, CID, Vice Chair
- Mr. David Landecker, LS, Secretary
- Ms. Lyn Berglund, CID
- Ms. Tanya Digiovanni, Public Member
- Mr. David Fisher, CBO, Public Member
- Mr. Terry Groshong, Architect
- Mr. Jim Grube, Professional Engineer
- Mr. Robert Gunderson, LA
- Mr. Wayne Hilbert, Architect
- Mr. Nirmal Jain, Professional Engineer
- Mr. David Krech, Professional Engineer
- Mr. William Kuretsky, JD, Public Member
- Mr. Dennis Martenson, Professional Engineer



Mr. Robin Mathews, LS  
Mr. Paul May, Architect  
Mr. Peter Miller, PSS  
Mr. Daniel Murphy, Professional Engineer  
Ms. Marjorie Pitz, LA  
Mr. Keith Rapp, PG  
Mr. John Swanson, Deputy Fire Marshal, Public Member

## **RULE-BY-RULE ANALYSIS**

### **Council of Interior Design Qualification (CIDQ)**

The following rules have been modified to drop the word "National" from the beginning of the organization's name in accordance with the council's legal name change. No other modifications have been made to these rule parts:

- M.R. 1800.0400
- M.R. 1800.0600
- M.R. 1800.2100
- M.R. 1800.2200

### **M.R. 1800.0300 IN-TRAINING CLASSIFICATIONS**

This rule package includes repealing M.R. 1800.3800 and M.R. 1800.3850. The references to these rules have been removed.

### **M.R. 1800.0450 TEMPORARY MILITARY CERTIFICATE**

This rule creates the procedure for applying for a temporary license to practice architecture, engineering, land surveying, landscape architecture, geology, soil science or for a temporary certificate to use the title "Certified Interior Designer." The temporary license or certificate is limited by statute to active duty military members, spouses of active military duty members or veterans with an honorable or general discharge status within the two year preceding the application for a temporary certificate.

Subpart 1 delineates the information required to apply for a temporary certificate and includes an application, the license or certificate fee and the evidence required by statute (military status, current license or certificate in another jurisdiction, and a criminal background study).

Subpart 2 states that the Board will evaluate the information submitted and notify the applicant of the result in writing. If the applicant qualifies for the temporary license or certificate, the Board will issue the temporary license or certificate and notify the applicant. If the applicant does not qualify, the Board will give the reasons for ineligibility.

Subpart 3 defines the period of time for which the temporary license or certificate is valid. The temporary license or certificate will expire when the first of the following three things occurs:

1. The expiration date listed on the temporary license or certificate (six months after the date of issue);
2. Following the Board's review of the applicant's full application and the Board's determination that the applicant is not qualified for licensure or certification; or
3. Following the Board's review of the applicant's full application and the Board's determination that the applicant is qualified for licensure or certification.

Subpart 4 states that the applicant must complete the full application required for a license or certificate (as any other applicant would complete). If after the Board's review of the full

application the applicant is found eligible for licensure or certification, the Board will issue the license or certificate and notify the applicant. The temporary license or certificate will expire upon issuance of the license or certificate as stated in Subpart 3. If after the Board's review of the full application the applicant is found ineligible for licensure or certification, the Board will notify the applicant in writing. The temporary license or certificate will expire with this notification as stated in Subpart 3.

Subpart 5 limits the number of times an applicant can receive a temporary military license or certificate in Minnesota to one (1) and does not allow renewal of temporary licenses or certificates. Applicants who are found ineligible for licensure or certification after the Board's review of their full application or do not complete the full application process will not be able to receive a second temporary licensure or certificate by re-applying for such license or certificate. Additionally, applicants will not be able to "renew" the temporary license or certificate and continue practicing.

#### **M.R. 1800.0800 PROOF OF QUALIFICATION TO PRACTICE**

This rule references "paragraph (a)" of MN Statutes, section 326.10, subdivision 1. "Paragraph (a)" does not exist. The statute was updated, but the rule referencing the statute was not.

#### **M.R. 1800.1000 EDUCATION AND EXPERIENCE**

The National Council of Architectural Registration Boards (NCARB) has adopted changes to its Intern Development Program (IDP) guidelines which the Board has in turn adopted. The changes are effective July 1, 2015. The publication date for the updated guidelines is "July 2015" therefore the rule reference to the document must be updated.

Additionally, "Appendix H" of the NCARB-IDP guidelines does not exist and the reference must be removed.

#### **M.R. 1800.3505 IN-TRAINING CLASSIFICATIONS**

This rule package includes repealing M.R. 1800.3800 and M.R. 1800.3850. The references to these rules have been removed.

#### **M.R. 1800.3800 SYLLABUS FOR WRITTEN EXAMINATION**

This rule is obsolete. The Board does not have a syllabus for the written examination in land surveying. The National Council of Examiners for Engineering and Surveying (NCEES), the organization which owns and administers the written examination and to which the Board is a member, publishes the specifications for the examination on their website.

#### **M.R. 1800.3850 TRANSITION PERIOD**

This rule is obsolete. The transition period ended on December 31, 2012.

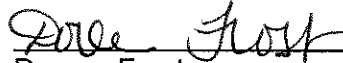
#### **M.R. 1800.5200 GENERAL REQUIREMENT AND EXCEPTIONS**

MN Statutes section, 326.03, subdivision 2 was modified so that the clauses are numbered (1) to (4) rather than (a) to (d). The rule referencing this statute had not been updated.

#### **CONCLUSION**

Based on the foregoing, the proposed rules are both needed and reasonable.

5.13.15  
Date

  
Doreen Frost  
Executive Director