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# Policy Statement

## Exemption to Licensing Requirements

### Background

Section 11 of the NWT Act and Sections 3 and 4 of the Nunavut Act deals with matters related to practice.

NWT Section 11 (5) and Nunavut Section 3 (5) states:

*Nothing in this section applies to*

- (a) a person practising as an architect, if his or her practice is confined to architecture,*
- (b) a person who holds a commission as a Canada Lands Surveyor under the Canada Lands Surveyors Act, if his or her practice is confined to the activities of a land surveyor,*
- (c) a person practising as a mine surveyor, or*
- (d) a member of the Canadian Armed Forces while he or she is employed on duty with the Forces, provided that he or she does not hold himself or herself out as a professional engineer or professional geoscientist.*

NWT Section 11 (6) and Nunavut Section 3 (6) states:

*Nothing in this section prevents a person from*

- (a) performing any work on his or her own place, or proposed place, of residence; and*
- (b) assisting in the performance of any work referred to in paragraph (a).*

NWT Sections 23 to 27 and Nunavut Section 5 set out the requirements for a Permit to

Practice. NWT Section 23.6 and Nunavut Section 5 (3) called Exemption states:

*Nothing in this section prevents a firm from practising professional engineering or professional geoscience without a permit if the work*

- (a) is performed by an employee who is a member or licensee;*
- (b) is used exclusively by the firm and is not used by or delivered to another party; and*
- (c) does not affect the safety of any person.*

Bylaw Section 26(6) states:

*Council approval is required for new and revised policies and guidelines for effective governance of the Association.*

The bylaws are silent on the issue of exemption and based on questions raised in the past, a policy is required.

Definitions: *“Professional Engineering” means any act of planning, designing, composing, measuring, evaluating, inspecting, advising, reporting, directing or supervising, or managing any of those acts, that requires the application of engineering principles. “Professional Geoscience” means any act of documenting, analyzing, evaluating, interpreting or reporting on the earth’s materials or on resources, forms or processes, or managing any of those acts, that requires the application of the principles of geology, geophysics or geochemistry.*

Recommended by Membership and Enforcement Committee – November 1, 2016, February 9, 2017, November 6, 2018, March 1, 2022 and April 5, 2022

Approved by Council – March 17, 2017; Reconfirmed by Council: November 9, 2018 and April 8, 2022

## Purpose

This policy provides clarification on the intent of the various exemption sections. Sections 11 (5) and (6) are clear and need no further interpretation.

Further interpretation of NWT Section 23.6 and Nunavut Section 5 (3) is required to provide guidance to the Membership and Enforcement Committee to ensure that decisions, on recommendations to Council regarding this section, will be fair and consistent.

## Policy

It is clear from NWT 23(6) and NU 5(3) that a firm may practise professional engineering or professional geoscience without a permit if the work is performed by an employee who is a member or licensee; is used exclusively by the firm and is not used by or delivered to another party; **and** does not affect the safety of any person.

NAPEG's interpretation of 23(6) is that every action that a firm would do, even though it may be used exclusively by the firm and not used by or delivered to another party, will still affect the safety of people, in particular their staff and possibly others. Therefore all actions by firms practicing engineering or geoscience, require a Permit to Practice.

Exploration companies, that have no professional engineers and/or professional geoscientists on staff and rely fully on independent qualified persons, per National Instrument (NI) 43-101 or other such regulations, may be exempt from requiring a Permit. They must submit a signed declaration to the effect that:

- The firm does not have any engineers or geoscientists on staff; and
- Any engineering or geoscience work on behalf of the company is performed by a NAPEG registered firm and/or practitioner; and
- They must submit the name/s of NAPEG practitioner/s and/or Permit Holder.

Exploration firms that do have professional engineers and/or professional geoscientists on staff, even though they must rely on independent qualified persons, per NI 43-101, would not be exempt.

If any firm has a professional practitioner on staff, it is NAPEG's position that the company would normally require a Permit to Practice. When it is clear that a firm does not practice engineering or geoscience, the firm would not be required to apply for a Permit to Practice or for an exemption. An example might be a Professional who sells sporting goods for a sporting goods store.

If the firm appears to be practicing engineering or geoscience, but believes it does not require a permit, the firm may formally request an exemption explaining why they do not require a permit. An example may be where a construction company is supervising construction and all the engineering has been done by others even when clarification is required on elements of the project. The registered professional working for such a firm, is cautioned about the need to comply with the *Code of Ethics*, i.e., "Professional Engineers and Professional Geoscientists will keep themselves informed in order to maintain their competence".

Some federally regulated industries including transportation may be exempt from complying with provincial acts and licensing requirements. However it is NAPEG's position that these firms should have a Permit to Practice because they may be putting the safety of people at risk. Staff of these firms would require professional registration.

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## REQUEST FOR EXEMPTION

I declare that the firm \_\_\_\_\_ is not engaged in the practice of professional engineering or professional geoscience in the Northwest Territories and/or Nunavut.

The firm \_\_\_\_\_ does not have any engineers or geoscientists on staff; and engineering or geoscience work on behalf of the company is performed by a NAPEG registered firm and/or practitioner.

Name of Permit Holder	NAPEG Permit Number	Anticipated Duration of Contract
Name/s of Practitioner/s	NAPEG Registration Number	Field of Practice

<b>Signature of COO, or Designate</b>	<b>Date</b>

Or,

This is to request exemption from the NAPEG requirement to hold a Permit to Practice for firms who are not practicing engineering or geoscience in the Northwest Territories and/or Nunavut. The following explains the reasons for requesting this exemption (include a signed letter if not sufficient space).

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<b>Signature of COO, or Designate</b>	<b>Date</b>

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