

# **State of Nebraska Professional Geologists Handbook**

- **Statutes**
- **Rules and Regulations**



**Effective July 1, 2019**



## Introduction

This handbook contains the Nebraska Geologists Regulation Act and the Rules and Regulations of the Nebraska Board of Geologists. Together, these statutes and rules govern the practice of geology in the state of Nebraska in order to safeguard life, health, property and promote the public welfare.

**The first section presents the Statutes** as cited in the Geologists Regulation Act, enacted by the Nebraska Legislature in 1998 - the year the Nebraska Board of Geologist was established. The most recent changes to the Act were enacted through Legislative Bill 91 of the One Hundred Third Legislature, First Session, and became effective September 6, 2013.

**The second section presents the Rules and Regulations**, or Title 171 of the Nebraska Administrative Code, chapters 1 through 7. These Rules and Regulations were written by the Board to enable administration of the Statutes, and cannot exceed the powers assigned to the Board by the Legislature. The latest revision to the Rules and Regulations became effective on July 1, 2019.

This handbook incorporates all current statutes and rules & regulations as of July 1, 2019. For further information concerning the law or rules and regulations governing the practice of geologists in Nebraska, please contact:

### **Nebraska Board of Geologists**

215 Centennial Mall South, Ste 400

PO Box 94844

Lincoln, NE 68509-4844

Phone: 402-471-2407

Fax: 402-471-0787

Email: [nebog.board@nebraska.gov](mailto:nebog.board@nebraska.gov)

**[www.nebog.ne.gov](http://www.nebog.ne.gov)**

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**RULES AND REGULATIONS**

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**81-3501. Act, how cited.**

Sections 81-3501 to 81-3541 shall be known and may be cited as the Geologists Regulation Act.

**Source:**Laws 1998, LB 1161, § 49; Laws 2004, LB 890, § 1.

**81-3502. Geology; regulation; prohibited acts.**

In order to safeguard life, health, and property and to promote the public welfare, the profession of geology is declared to be subject to regulation in the public interest. It is unlawful for any person to (1) practice or offer to practice geology in this state, (2) use in connection with his or her name or otherwise assume the title professional geologist, or (3) advertise any title or description tending to convey the impression that he or she is a licensed geologist, unless the person is duly licensed or exempt from licensure under the Geologists Regulation Act. The practice of geology and use of the title geologist is a privilege granted by the state.

**Source:**Laws 1998, LB 1161, § 50.

**81-3503. Definitions, where found.**

For purposes of the Geologists Regulation Act, the definitions found in sections 81-3504 to 81-3519 shall be used.

**Source:**Laws 1998, LB 1161, § 51; Laws 2004, LB 890, § 2.

**81-3504. Board, defined.**

Board means the Board of Geologists.

**Source:**Laws 1998, LB 1161, § 52.

**81-3505. Consulting geologist, defined.**

Consulting geologist means a professional geologist whose principal occupation is the independent practice of geology; whose livelihood is obtained by offering geologic services to the public; who serves clients as an independent fiduciary; who is devoid of public, commercial, and product affiliation that might tend to imply a conflict of interest; and who is cognizant of his or her public and legal responsibilities and is capable of discharging them.

**Source:**Laws 1998, LB 1161, § 53.

**81-3506. Continuing education, defined.**

Continuing education means the process of training and developing knowledge related to a profession after licensure is attained.

**Source:**Laws 1998, LB 1161, § 54.

**81-3507. Direct supervision, defined.**

Direct supervision means the degree of supervision by a person overseeing the work of another person by which the supervisor has control over and detailed professional knowledge of the work being done.

**Source:**Laws 1998, LB 1161, § 55.

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**81-3508. Emeritus, referring to a geologist, defined.**

Emeritus, referring to a geologist, means a professional who relinquishes or does not renew his or her licensure and who is approved by the board to receive publications and use the honorary title emeritus.

**Source:**Laws 1998, LB 1161, § 56.

**81-3509. Geologist, defined.**

Geologist means a person who is qualified to practice geology by reason of special knowledge and use of the earth sciences and the principles of geology and geologic data collection and analysis acquired by geologic education and geologic experience as provided in section 81-3539.

**Source:**Laws 1998, LB 1161, § 57.

**81-3509.01. Geologist-intern, defined.**

Geologist-intern means a person who has passed an examination in the fundamentals of geology as provided in section 81-3540.

**Source:**Laws 2004, LB 890, § 3.

**81-3510. Geology, defined.**

Geology means the science which includes treatment of the earth and its origin and history, in general; investigation of the earth's constituent rocks, soils, minerals, solids, fluids including underground waters, gases, and other materials; the study of the natural agents, forces, and processes which cause changes in the earth or on its surface; and the application of this knowledge of the earth.

**Source:**Laws 1998, LB 1161, § 58.

**81-3511. Geology specialty, defined.**

Geology specialty means a branch of geology which has been recognized for the purposes of licensure, including, but not limited to, environmental geology, engineering geology, geophysics, hydrogeology, petroleum geology, mining geology, and structural geology.

**Source:**Laws 1998, LB 1161, § 59.

**81-3512. Good character, defined.**

Good character means such character as will enable a person to discharge the fiduciary duties of a geologist to his or her client and to the public for the protection of the public health, safety, and welfare. Evidence of inability to discharge such duties includes the commission of an offense justifying discipline.

**Source:**Laws 1998, LB 1161, § 60.

**81-3513. Occasional, part-time, or consulting services, defined.**

Occasional, part-time, or consulting services means services not provided by a full-time member of an organization engaged in geology.

**Source:**Laws 1998, LB 1161, § 61.



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**81-3514. Organization, defined.**

Organization includes a partnership, limited liability company, corporation, or other form of business entity.

**Source:**Laws 1998, LB 1161, § 62.

**81-3515. Practice of geology, defined.**

Practice of geology means any service or creative work if the adequate performance of the service or work requires geologic education, training, and experience to include such services or creative work as geological consultation, investigation, planning, surveying, mapping, and inspection of geological work, and the responsible supervision thereof, the performance of which is related to public welfare or the safeguarding of life, health, property, and the environment, and teaching, including research and service, of advanced geological subjects. A person shall be construed to practice or offer to practice geology if he or she: (1) Practices any branch of the profession of geology; (2) by verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be a professional geologist; (3) through the use of some other title, implies that he or she is licensed under the Geologists Regulation Act; or (4) holds himself or herself out as able to perform or does perform any geologic service or work recognized by the board as the practice of geology.

**Source:**Laws 1998, LB 1161, § 63.

**81-3516. Professional geologist, defined.**

Professional geologist means a geologist who has a current certificate of licensure issued by the board.

**Source:**Laws 1998, LB 1161, § 64.

**81-3517. Registration (or licensure), defined.**

Registration (or licensure) means a certificate of registration (or licensure) issued by the board. For the purposes of the Geologists Regulation Act, license and registration have the same meaning.

**Source:**Laws 1998, LB 1161, § 65.

**81-3518. Responsible charge, defined.**

Responsible charge means direct control, direction, and personal supervision by use of initiative and independent judgment for geological work.

**Source:**Laws 1998, LB 1161, § 66.

**81-3519. Technical submissions, defined.**

Technical submissions means designs, drawings, specifications, studies, and other technical reports.

**Source:**Laws 1998, LB 1161, § 67.

**81-3520. Board of Geologists; created; membership; terms.**

(1) The Board of Geologists is created to administer the Geologists Regulation Act. The board may use any funds available to obtain suitable office space within Lincoln, Nebraska, for the board. The board shall consist of seven members appointed by the Governor for terms of five years each, ending on the last day of February. The members shall include one education

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member appointed pursuant to subsection (2) of this section and one public member. All members of the board shall be professional geologists with the exception of the one public member. Each member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. The length of the initial terms shall be staggered, as determined by the board. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies on the board, however created, shall be filled for the unexpired term by appointment by the Governor.

(2) The membership of the board shall include one education member who is licensed in geology and who is a member of the professional faculty of a geology or related geosciences department of a college or university located in Nebraska, recommended by the president of the respective college or university, and appointed by the Governor.

(3) The membership of the board shall include one public member appointed by the Governor. The appointment is for five years.

(4) The board may designate a former member of the board as an emeritus member. Emeritus member status, when conferred, must be renewed annually. The emeritus member shall be a nonvoting member.

**Source:**Laws 1998, LB 1161, § 68; Laws 2013, LB91, § 1.

### **81-3521. Board; membership requirements; expenses.**

Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding his or her appointment. Each professional member shall have been engaged in the active practice of geology for at least ten years, shall have had responsible charge of work for at least five years at the time of his or her appointment, and shall be licensed in geology. Each member of the board shall receive as compensation the same per diem and travel expenses as other state employees for each day actually spent in traveling to and from and while attending sessions of the board and its committees or authorized meetings of the National Association of State Boards of Geology, or their subdivisions or committees, and all necessary expenses incident to the performance of his or her duties under the Geologists Regulation Act as provided in sections 81-1174 to 81-1177.

**Source:**Laws 1998, LB 1161, § 69.

### **81-3522. Board; certificate of appointment; Attorney General; duties; official seal; rules and regulations.**

Each member of the board shall receive a certificate of appointment from the Governor and, before beginning the term of office, shall file with the Secretary of State the constitutional oath of office. The board or any committee of the board is entitled to the services of the Attorney General in connection with the affairs of the board, and the board may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Geologists Regulation Act. The board may employ counsel and necessary assistance to aid in carrying out the act. The board shall adopt and have an official seal, which shall be affixed to all certificates of licensure granted, and shall adopt and promulgate rules and regulations to carry out the act.

**Source:**Laws 1998, LB 1161, § 70.

### **81-3523. Board; meetings; quorum.**

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The board shall hold at least one regular meeting each year. Special meetings shall be held as provided in the rules and regulations and at such places as the board elects. Notice of all meetings shall be given in such manner as provided in the rules and regulations. The board shall elect annually at its first meeting after March 1, from its members, a chairperson, vice-chairperson, and secretary. A quorum of the board shall consist of not less than five members.

**Source:**Laws 1998, LB 1161, § 71.

### **81-3524. Geologists Regulation Fund; created; use; investment.**

The Geologists Regulation Fund is created. The secretary of the board shall receive and account for all money derived from the operation of the Geologists Regulation Act. The board shall remit the money to the State Treasurer for credit to the Geologists Regulation Fund, which shall be continued from year to year and shall be drawn against only as provided for in this section and, when reappropriated for the succeeding biennium, shall not revert to the General Fund. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including compensation and administrative staff, and any expense incident to the administration of the act relating to other states, shall be paid out of the fund. Warrants for the payment of expenses shall be issued by the Director of Administrative Services and paid by the State Treasurer upon presentation of vouchers regularly drawn by the chairperson and secretary of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of the fees collected under the act and to the credit of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Geologists Regulation Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:**Laws 1998, LB 1161, § 72; Laws 2009, First Spec. Sess., LB3, § 87.

### **Cross References**

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

### **81-3525. Roster.**

The secretary of the board shall publish a complete roster showing the names and last-known addresses of all professional geologists at intervals as established by board rules and regulations. The secretary shall file the roster with the Secretary of State and may mail a copy to each person so licensed as well as county and municipal officials. The secretary may also sell or distribute copies of the roster to the public.

**Source:**Laws 1998, LB 1161, § 73.

### **81-3526. Code of practice; board; powers and duties.**

(1) The Legislature hereby finds and declares that a code of practice established by the board by which the members could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property of the citizens of this state.

(2) The code of practice established by this section shall include provisions on

- (a) Professional competence;
- (b) Conflict of interest;
- (c) Full disclosure of financial interest;
- (d) Full disclosure of matters affecting public safety, health, and welfare;

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- (e) Compliance with laws;
- (f) Professional conduct and good character standards; and
- (g) Practice of geology.

(3) The board may establish such code of practice through rules and regulations adopted and promulgated by the board.

(4) The board may publish commentaries regarding the code of practice. Such commentaries shall explain the meaning of interpretations given to the code by the board.

(5) The board shall have the power to suspend or revoke a geologist's licensure for a violation of the code of practice.

**Source:**Laws 1998, LB 1161, § 74.

**81-3527. Licensure; enrollment; application; fees.**

(1) Application for licensure as a geologist or enrollment as a geologist-intern shall be made on a form prescribed and furnished by the board. If required pursuant to section 81-3539, the application shall contain statements made under oath showing the applicant's education and a detailed summary of technical experience and shall include the names and complete mailing addresses of the references, none of whom shall be members of the board. The board may accept the verified information contained in the National Association of State Boards of Geology for applicants in lieu of the same information that is required on the form prescribed and furnished by the board.

(2) Application, licensure, and enrollment fees shall be established by the board and shall accompany the application. Original and reciprocal fees shall not exceed three hundred dollars for licensure as a geologist and one hundred dollars for enrollment as a geologist-intern and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration.

(3) The certificate of authorization fee for organizations shall be established by the board and shall accompany the application. The fee shall not exceed three hundred dollars per year.

(4) The fee for emeritus status shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars per year.

(5) If the board denies the issuance of a certificate to any applicant, including the application of an organization for a certificate of authorization, the board shall retain the fee.

**Source:**Laws 1998, LB 1161, § 75; Laws 2004, LB 890, § 4; Laws 2013, LB91, § 2.

**81-3528. Practice through organization; certificate of authorization; requirements.**

(1) The practice or offer to practice for others of geology by individuals licensed under the Geologists Regulation Act through an organization is permitted if the criteria for organizational practice established by the board are met and the organization has been issued a certificate of authorization by the board. All technical submissions by an organization involving the practice of geology when issued or filed for public record shall be dated and bear the seal of the licensed geologist who prepared the submission or under whose immediate direction it was prepared.

(2) An organization desiring a certificate of authorization shall file with the board an application, using the form provided by the board, which also contains a list of the names and addresses of all officers of the organization, duly licensed to practice geology in the state through the organization. Any change in the list of officers during the certificate period shall be designated on the same form and filed with the board within thirty days after the effective date of the change. If the requirements of this section are met, the board shall issue a certificate of

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authorization to the organization and the organization may contract for and collect fees for furnishing professional services.

(3) The Geologists Regulation Act shall not prevent an organization from performing professional services for itself.

(4) An organization is not relieved of its responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing geology is not relieved of his or her responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.

(5) Commencing one year after January 1, 1999, the Secretary of State shall not issue a certificate of authority to an applicant or a registration of name to a foreign firm to an organization which includes among the objectives for which it is established geology or any modification or derivation of geology, unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate of authorization. The organization shall supply the certificate or letter with its application for incorporation or licensure.

(6) Commencing one year after January 1, 1999, the Secretary of State shall not register any trade name or service mark which includes the words professional geologist, or any modification or derivative of such word, in its firm name or logotype except to those organizations holding a certificate of authorization issued by the board.

(7) The certificate of authorization shall be renewed periodically as required by the board.

(8) A geologist who renders occasional, part-time, or consulting services to or for an organization may not for purposes of this section be designated as being responsible for the professional activities of the organization.

**Source:**Laws 1998, LB 1161, § 76; Laws 2013, LB91, § 3.

**81-3529. Certificate of licensure; seal; use; prohibited acts; enrollment card.**

(1) The board shall issue to any applicant who, on the basis of education, experience, and examination, if required pursuant to section 81-3539, has met the requirements of the Geologists Regulation Act a certificate of licensure giving the licensed geologist proper authority to carry out the prerogatives of the act. The certificate of licensure shall carry the designation Licensed Professional Geologist. The certificate of licensure shall give the full name of the licensee and the license number and shall be signed by the chairperson of the board and the secretary of the board.

(2) The certificate shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of a professional geologist while the certificate of licensure remains unrevoked and unexpired.

(3)(a) Each licensee authorized to practice geology must obtain a seal. The design of the seal shall be determined by the board. The following information shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Licensed Professional Geologist.

(b) Whenever the seal is applied, the licensee's signature shall be across the seal. The board may adopt and promulgate rules and regulations for application of the seal.

(c) The seal and the date of its placement shall be on all technical submissions and calculations whenever presented to a client or any public or governmental agency. It shall be unlawful for a licensee to affix his or her seal or to permit his or her seal to be affixed to any document after the expiration of the certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the act.

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(d) The seal and date shall be placed on all originals, copies, tracings, or other reproducible documents in such a manner that the seal, signature, and date will be reproduced. The application of the licensee's seal shall constitute certification that the work was done by the licensee or under the licensee's control. In the case of multiple sealings, the first or title page shall be sealed and dated by all involved. In addition, each sheet shall be sealed and dated by the licensee responsible for each sheet. In the case of an organization, each sheet shall be sealed and dated by the licensee involved. The geologist in responsible charge shall seal and date the title or first sheet.

(e) In the case of a temporary permit issued to a licensee of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all his or her work.

(4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of the act, an enrollment card as geologist-intern which indicates that his or her name has been recorded as such in the board office. The geologist-intern enrollment card does not authorize the holder to practice as a professional geologist.

**Source:**Laws 1998, LB 1161, § 77; Laws 2004, LB 890, § 5; Laws 2013, LB91, § 4.

### **81-3530. Seal and signature; affixation; restrictions.**

(1) A professional geologist shall only affix his or her seal and signature when he or she was in responsible charge of the work.

(2) A professional geologist shall affix his or her seal and signature on geologic reports, documents, maps, plans, logs, and sections, or other public records offered to the public and prepared or issued by or under the direct supervision of the professional geologist.

**Source:**Laws 1998, LB 1161, § 89; Laws 2013, LB91, § 5.

### **81-3531. Certificate of licensure; certificate of authorization; renewal; form; contents; notice; fee; continuing education; authorized.**

(1) Certificates of licensure and certificates of authorization shall expire on a date established by the board and shall become invalid after that date unless renewed. The secretary of the board shall notify every person licensed under the Geologists Regulation Act and every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of licensure or certificate of authorization and the amount of the fee required for renewal. The notice shall be mailed to the licensee or organization at the last-known address on file with the board at least one month in advance of the date of the expiration. Renewal may be effected at any time prior to or during the period established by the board upon application pursuant to this section and payment of a renewal fee. The fee shall not exceed two hundred dollars per year. Renewal of an expired certificate may be effected under rules and regulations of the board regarding requirements for reexamination and for penalty fees. The board may adopt a program of continuing education as a requirement for renewal for individual licensees.

(2) An applicant for renewal of a certificate of licensure shall apply on a form prescribed and furnished by the board. The application shall contain statements made under oath showing the applicant's fitness to maintain licensure, including felony convictions in any jurisdiction, convictions involving moral turpitude in any jurisdiction, and suspension or revocation of a professional license in any other jurisdiction. The board shall review the application for renewal. If the board takes no action, the license shall be renewed. The board may deny renewal if it determines the applicant does not meet the requirements for licensure or renewal.

**Source:**Laws 1998, LB 1161, § 78; Laws 2013, LB91, § 6.

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**81-3532. Certificates; replacement; fee.**

A new certificate of licensure or certificate of authorization to replace any certificate lost, destroyed, or mutilated may be issued by the board. A fee not to exceed one hundred dollars shall be charged for each issuance.

**Source:**Laws 1998, LB 1161, § 79.

**81-3533. Enforcement of act.**

The board shall enforce the Geologists Regulation Act and the rules and regulations, including enforcement against any unlicensed person. If any person refuses to obey any decision or order of the board, the board or, upon the request of the board, the Attorney General or the appropriate county attorney shall file an action for the enforcement of the decision or order, including injunctive relief, in the district court. After hearing, the court shall order enforcement of the decision or order, or any part thereof, if legally and properly made by the board and, if appropriate, injunctive relief.

**Source:**Laws 1998, LB 1161, § 80.

**81-3534. Practice of geology; restrictions.**

Except as provided in sections 81-3539 to 81-3541, an individual shall not directly or indirectly engage in the practice of geology in the state or use the title Professional Geologist or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is a geologist or is practicing geology unless he or she is licensed under the Geologists Regulation Act. A licensed geologist shall not aid or abet any person not licensed under the act in the practice of geology.

**Source:**Laws 1998, LB 1161, § 81.

**81-3535. Prohibited acts; penalties.**

Any person who performs any of the following actions is guilty of a Class II misdemeanor for the first offense and a Class I misdemeanor for the second or any subsequent offense:

- (1) Practices or offers to practice geology in this state without being licensed in accordance with the Geologists Regulation Act and is not exempted by sections 81-3539 to 81-3541;
- (2) Knowingly and willfully employs or retains a person to practice geology in this state who is not licensed in accordance with the act and who is not exempted by sections 81-3539 to 81-3541;
- (3) Uses the word Geologist, or any modification or derivative of such word, in its name or form of business activity except as authorized in the act;
- (4) Presents or attempts to use the certificate of licensure or the seal of another person;
- (5) Gives any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate of authorization;
- (6) Falsely impersonates any other licensee of like or different name;
- (7) Attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure or practices or offers to practice when not qualified;
- (8) Falsely claims that he or she is licensed or authorized under the act; or
- (9) Violates any of the provisions of the act.

**Source:**Laws 1998, LB 1161, § 82.

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**81-3536. Violation of act; charges; board; duties; hearing.**

Charges against any person involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board. The charges, at the discretion of the board, shall be heard within a reasonable time in accordance with the rules and regulations which may include use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his or her defense. The board shall set the time and place for the hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his or her last-known business or residence address known to the board, at least thirty days before the hearing. If, after the hearing, the board finds the accused has violated the Geologists Regulation Act or any rules or regulations, it may issue any order described in section 81-3537. If the board finds no violation, it shall enter an order dismissing the charges. If the order revokes, suspends, or cancels a license, the board shall notify, in writing, the Secretary of State and the clerk of the city or village in the state where the person has a place of business, if any. The board may reissue a license to any person whose license has been revoked. Application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board.

**Source:**Laws 1998, LB 1161, § 83.

**81-3537. Violation of act; disciplinary action; penalties.**

(1) The board may after hearing, by majority vote, take any or all of the following actions, upon proof satisfactory to the board that any person or organization has violated the Geologists Regulation Act or any rules or regulations adopted and promulgated pursuant to the act:

- (a) Issuance of censure or reprimand;
- (b) Suspension of judgment;
- (c) Placement of the offender on probation with the board;
- (d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;
- (e) Imposition of a civil penalty not to exceed ten thousand dollars. The amount of the penalty shall be based on the severity of the violation;
- (f) Entrance of an order of revocation, suspension, or cancellation of the certificate of licensure;
- (g) Issuance of a cease and desist order;
- (h) Imposition of costs as in an ordinary civil action in the district court, which may include attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or
- (i) Dismissal of the action.

In hearings under this section, the board may take into account suitable evidence of reform.

(2) Civil penalties collected under subdivision (1)(e) of this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. All costs collected under subdivision (1)(h) of this section shall be remitted to the State Treasurer for credit to the Geologists Regulation Fund.

**Source:**Laws 1998, LB 1161, § 84; Laws 2013, LB91, § 7.



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**81-3538. Repealed. Laws 2005, LB 544, § 1.**

**81-3539. Licensure; enrollment; applicant; qualifications; waiver.**

(1) Applications for licensure as a professional geologist, for temporary or reciprocal licensure, or for enrollment as a geologist-intern shall be on forms prescribed and furnished by the board and shall be accompanied by the fee established by the board.

(2) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional geologist or enrollment as a geologist-intern:

(a) The applicant is of good character and reputation and submits four references with his or her application for licensure as a professional geologist. Two of the references shall be professional geologists having personal knowledge of his or her geological experience or, in the case of the application for enrollment as a geologist-intern, acting only as character references;

(b) The applicant has successfully completed a minimum of thirty semester hours or forty-five quarter hours of course work in geology and has received a baccalaureate or advanced degree in geology or a geologic specialty from a program recognized by the board;

(c) The applicant has a documented record of a minimum of five years of progressive experience, obtained subsequent to completion of the education requirements, in geologic work of a grade and character which indicates to the board that the applicant is qualified to assume responsible charge of such work upon licensure as a geologist, including geologic teaching of advanced subjects and the design of geologic research and projects in a college or university offering a geologic curriculum, except that no work experience is required for enrollment as a geologist-intern; and

(d) The applicant has completed an examination covering the fundamentals and practice of geology prescribed by the board. Upon passing the fundamentals of geology examination, the applicant may be enrolled as a geologist-intern. Upon passing the practice of geology examination, the applicant may be granted a certificate of licensure to practice geology in this state if otherwise qualified.

(3) A person who holds a valid certificate of licensure to engage in the practice of geology, issued pursuant to the authority of any state or possession of the United States or the District of Columbia based on requirements that do not conflict with the act and were of a standard not lower than that specified in the applicable licensing law in effect in this state at the time the certificate was issued, may, upon application, be considered by the board to have fulfilled the requirements of subdivisions (2)(b) and (c) of this section and be licensed without further examination as required under subdivision (2)(d) of this section.

(4) The requirements of subdivisions (2)(b) through (d) of this section may be waived by the board if the applicant is licensed to practice geology at the time of application and has maintained a current certificate of licensure to practice geology for at least fifteen years issued pursuant to the authority of a state or possession of the United States or the District of Columbia based on requirements that do not conflict with the Geologists Regulation Act and if the applicant has lawfully practiced geology for at least fifteen years in such jurisdiction. Lawful practice includes any practice that is in compliance with the licensure law in effect in the jurisdiction where the practice occurs.

**Source:**Laws 1998, LB 1161, § 86; Laws 2004, LB 890, § 6; Laws 2013, LB91, § 8.

**81-3540. Geology examinations.**

(1) The board or its agent shall direct the time and place of geology examinations. The board shall determine the acceptable grade on examinations.

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(2) The examination shall be given in two sections as follows:

(a) A fundamentals of geology examination designed to test the academic preparation of the applicant in geology. At the board's discretion, the examination may be taken at any time following substantial completion of the applicant's educational requirements. Passing this examination qualifies the examinee for a geologist-intern enrollment card, if all other requirements for enrollment as a geologist-intern are met; and

(b) A principles and practice of geology examination designed to test the applicant's ability to apply geologic knowledge and to assume responsible charge of geologic work. The geologic practice examination may be taken only after the applicant has acquired the education and experience required for licensure as a geologist.

(3) A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify before admission to the examination.

(4) The board may prepare and adopt specifications for the examinations. The specifications shall be published and be available to any person interested in being licensed.

**Source:**Laws 1998, LB 1161, § 87; Laws 2004, LB 890, § 7; Laws 2013, LB91, § 9.

**81-3541. Licensure; activities exempt.**

(1) The following activities do not require licensure as a geologist under the Geologists Regulation Act:

(a) Geological work performed by an employee or a subordinate of a professional geologist if the work does not include responsible charge of geological work and is performed under the direct supervision of a professional geologist who is and remains responsible for such work;

(b) Geological work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, and not having a substantial impact upon the public health, safety, and welfare, as determined by the board;

(c) Geologic research conducted through academic institutions, agencies of the federal or state governments, or nonprofit research institutions;

(d) Teaching in geology or related physical or natural sciences;

(e) Work performed by a professional engineer appropriately licensed in this state that is within the generally accepted scope of engineering practice;

(f) The practice of any other legally recognized profession;

(g) The practice of or offer to practice geology by a person not a resident of and having no established place of business in this state who desires to practice geology for a specific project. The person shall make application to the board in writing, and after payment of a fee established by the board by rule and regulation, such person may be issued a temporary permit for a definite period of time not to exceed one year if the person is legally qualified by licensure to practice geology in his or her own state or country. No right to practice geology shall accrue to such applicant with respect to any other work not set forth in the permit;

(h) Work, which includes subsurface excavation, soil and water analysis, and routine environmental monitoring, such as sample collection and water level gauging, performed by an organization for itself and in accordance with other requirements of law;

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(i) The work of employees of a political subdivision or state agency charged with natural resources conservation performing, in accordance with other requirements of law, their customary duties in operations, maintenance, and environmental monitoring;

(j) The work of employees and agents of a political subdivision or rural electric cooperative performing, in accordance with other requirements of law, their customary duties in routine utility line construction, operations, and maintenance;

(k) Work customarily performed by chemists, hydrologists, archeologists, geographers, pedologists, agronomists, and soil scientists; and

(l) Work performed in the construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells.

(2) If the board determines with respect to a particular function that the public is adequately protected without the necessity of a professional geologist performing certain services, the board may waive the requirements of the act with respect to the function.

(3) This section shall not be construed so as to prohibit the testimony of any individual before the Nebraska Oil and Gas Conservation Commission.

**Source:**Laws 1998, LB 1161, § 88; Laws 1998, LB 1209, § 31; Laws 2007, LB664, § 1.

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### CHAPTER 1 - GENERAL PROVISIONS

#### 1.1 Authority

The Nebraska Board of Geologists, hereinafter called the "Board," is created by the Geologists Regulation Act, Neb. Rev. Stat. §§ 81-3501 to 81-3541, hereinafter called the "Act." Pursuant to Neb. Rev. Stat. § 81-3522, the Board shall from time to time adopt rules and regulations, consistent with the laws of the State of Nebraska, which the Board deems necessary for the purpose of interpreting and implementing the Act.

#### 1.2 Severability

If any provisions of these regulations or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or application of these regulations which can be given without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

#### 1.3 Definitions

The definitions set out in Neb. Rev. Stat. §§ 81-3504 to 81-3519, are hereby incorporated by reference into these rules and regulations. In addition, the following definitions of terms shall apply:

- 1.3.1 ASBOG<sup>®</sup> means the National Association of State Boards of Geology.
- 1.3.2 FG Examination means the ASBOG<sup>®</sup> Fundamentals of Geology examination.
- 1.3.3 PG Examination means the ASBOG<sup>®</sup> Practice of Geology examination.
- 1.3.4 Temporary Permit means a permit issued by the Board for use on a specific project, not lasting in duration for more than one year.
- 1.3.5 Work, unless otherwise qualified, means the professional services comprising the practice of geology.

#### 1.4 Fees, Renewals, Late Payment Penalties

- 1.4.1 The fee shall be set by the Board and is as follows:

##### **Application Fees:**

Fundamentals of Geology (FG) Exam Application Fee	\$50
Practice of Geology (PG) Exam Application Fee	\$100
Reciprocal License Application Fee	\$100
Certificate of Authorization Application Fee	\$100

##### **Licensing/Enrollment Fees:**

Geologist-Intern Enrollment Fee	Included in FG exam application fee
Licensing Fee	Included in PG exam and license application fee
Temporary Permit Fee	\$175
Emeritus Fee (Lifetime)	\$25

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**Renewal Fees:**

License Renewal Fee	\$65
Late Renewal Fee	\$6.50 for any month or any part of a month, up to \$65
Certificate of Authorization Renewal Fee	\$100

**Miscellaneous Fees:**

Duplicate Certificate	\$15
Exam Seat Reservation Fee	\$35

- 1.4.2 The initial license of each approved professional geologist is valid for the calendar year in which it was first approved by the Board. The renewal fee applies to the next calendar year.
- 1.4.3 Certificates of licensure of a professional geologist shall expire at midnight on December 31 of each year, but may be renewed during the following year upon payment of a late fee. The late fee to be paid for the renewal of a certificate after December 31 shall be increased ten percent of the renewal fee for each month or fraction of a month that the payment is delinquent. The maximum renewal fee and late fee for a delinquent renewal shall not exceed twice the amount of the regular renewal fee and no renewal shall be made after one year from the original expiration date. A new application will be required after such date.
- 1.4.4 Certificates of authorization are valid for two years and shall expire at midnight on the date of expiration. An expired certificate may be renewed during the following year upon receipt of the renewal fee. No renewal shall be made after one year from the expiration date. A new application will be required after such date.
- 1.4.5 The fees may be adjusted as needed to generate the revenue needed to administer the Geologists Regulation Act.
- 1.4.6 Submittal of an application authorizes the Board to investigate the information provided on or appended to the application.
- 1.4.7 In addition to fees submitted to the Board, applicants are required to pay fees associated with examinations as established by ASBOG®.
- 1.4.8 All fees are non-refundable. Exam seat reservation fees are non-transferrable to a future examination.

**1.5 Applications**

- 1.5.1 Absent specific Board action, applications not completed within one year of receipt by the Board, will be closed. If an applicant wishes to continue the application process after such date, the applicant will be required to submit a new application, application fee, and meet the current requirements in place at that time.
- 1.5.2 An applicant's prior criminal or disciplinary history from any jurisdiction may be considered by the Board as part of the application process for examination or



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licensure. The existence of such history is not an automatic bar to being licensed or approved to take the examinations, nor is disclosure intended to automatically require consideration of the discipline by the Board.

- 1.5.3 No immediate family member of the applicant or current member of the Board shall serve as a reference when references are required as part of the application.

### **1.6 Professional Assistance**

The Board may retain professional assistance in carrying out administrative matters and other general governance of the Board. Such assistance may include financial, technological, legal, and administrative consultation, and shall work under the general direction of the Board.

### **1.7 Change of Contact Information and/or Name**

It is the responsibility of the professional geologist, intern, examinee, or organization to notify the Board of any changes in their contact information. If an individual changes his or her name, the person will notify the Board in writing of the name change and include a copy of the legal documents supporting the name change. All notifications should be made in writing within 30 calendar days of the change in information.

### **1.8 Adoption of the Attorney General's Model Rules**

The Board has adopted Title 53, Nebraska Administrative Code, Chapters 1 through 4 of the Nebraska Department of Justice, also known as the Attorney General's Model Rules, and has incorporated them into these regulations.

### **1.9 Public Information Requests**

Public information requests will be processed in accordance with Nebraska Public Information statutes. A roster of professional geologists will be provided on the Board's website for public use.

### **1.10 Confidentiality of Information**

- 1.10.1 Records denoted in Neb. Rev. Stat. §84-712.05 are considered non-public.
- 1.10.2 Replies received from references regarding the qualifications of an application shall be placed in files that are considered non-public records. The source and character of this information will not be divulged except when required by law.
- 1.10.3 Examination materials and results are considered confidential except examination results will be given directly to the examinee. Passing scores may be verified to another licensing jurisdiction upon written request of the examinee or the licensing jurisdiction.
- 1.10.4 An individual in the application process may personally inspect the content of his or her file except those items listed in this section.

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1.10.5 Original documents will remain with the Board, but may be copied at the Board's office.

### **1.11 Transcripts**

Transcripts or other documents issued by the granting institution of higher education, or its authorized agent, will be acceptable as proof of graduation when such proof is required by the Board.

### **1.12 Record of Board's Actions**

If a quorum is present, a simple majority of the Board members present is needed to take action unless otherwise noted in the Geologists Regulation Act and these rules. The Board will keep record of actions enacted at its meetings.

### **1.13 Conditional Approvals**

1.13.1 The Board may authorize the Board's designee to issue licenses, certificates of authorization, and temporary permits on a conditional basis, pending formal consideration of the application by the Board.

1.13.2 In the event the Board fails to give formal approval for any reason of an application, the conditional license, certificate, or temporary permit will expire at 11:59p.m. on the date the licensee is notified of such Board action.

1.13.3 Geologic services performed pursuant to a conditional approval will be deemed to have been performed pursuant to a valid license, certificate, or permit.

### **1.14 Appeal of Denied Applications**

An applicant who has been denied admission to either the FG or PG exam, enrollment as a geologist-intern, licensure as a professional geologists, or issuance of a certificate of authorization or temporary permit will be reconsidered by the Board if notice of appeal is filed within 30 days of the denial notice. Hearings will be held in accordance with Title 53, Nebraska Administrative Code, Chapter 4 of the Nebraska Department of Justice.

### **1.15 Promulgation, Amendment, or Repeal of Rules**

Petitioning for rulemaking shall be in accordance with Title 53, Nebraska Administrative Code, Chapter 2 of the Nebraska Department of Justice.

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**CHAPTER 2 - LICENSURE OF PROFESSIONAL GEOLOGISTS BY EXAMINATION**

**2.1. Requirements for Licensure by Examination**

Licensure by examination requires that the applicant have:

- (1) Satisfied the education requirements set forth in Rule 2.2;
- (2) Passed both the Fundamentals of Geology (FG) and Practice of Geology (PG) Examinations as set forth in Rule 2.3; and
- (3) Satisfied the experience requirement set forth in Rule 2.4;
- (4) Complied with the application process set forth in Rule 2.5.

**2.2. Education Requirements**

- 2.2.1. Applicants for the FG Examination must have completed a minimum of thirty semester hours or forty-five quarter hours of geology regardless of whether or not geology or geologic specialty degree has been earned.
- 2.2.2. Applicants for the PG Examination are required to have completed at least thirty semester hours or forty-five quarter hours of geology course work and earned a baccalaureate or advanced degree in geology or geologic specialty which includes five of the following courses or the Board approved equivalents: field geology, physical geology, mineralogy, petrology/petrography, structural geology, stratigraphy/sedimentology/soils, or hydrogeology.

**2.3. Examinations**

- 2.3.1. The examinations used by the Board determine eligibility shall be the current ASBOG® FG and PG examinations.
- 2.3.2. The Board will follow ASBOG®'s schedule for examinations at a place determined by the Board.
- 2.3.3. The Board will determine applicant eligibility for the FG and PG Examinations and notify the applicant of such.
  - 2.3.3.1. Once the Board determines an applicant is eligible to take the FG and/or PG Examination/s, the applicant remains eligible to retake the same examination for five years. The five years shall commence on the date of the first scheduled examination after the applicant has been approved.
- 2.3.4. The FG Examination may be taken upon meeting the education requirement set forth in Rule 2.2.1.
- 2.3.5. The PG Examination may be taken upon meeting the education requirement set forth in Rule 2.2.2 and the experience requirement set forth in Rule 2.4.

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- 2.3.6. The Board will accept the examination results as determined by ASBOG® and will report the results to the examinee.
- 2.3.7. If there is any reported examination irregularity on the part of an examinee, the Board will investigate the allegation and take appropriate action.
- 2.3.8. Passage of the FG and PG examinations will be determined by the ASBOG® pass/fail standards in place at the time the examination was taken.
- 2.3.9. After the third and subsequent failure of either examination, the candidate shall present to the Board evidence of having successfully completed two of the seven core geology courses as listed in Rule 2.2.2. It is recommended the courses be in the area(s) of examination deficiency. A new application, along with the current application fee will be required along with a request to retake the examination.
- 2.3.10. An examinee's failure to attend an examination for which he or she has been scheduled will forfeit the registration and exam seat reservation fee.
- 2.3.11. Failure of an examinee to attend an examination for which he or she has been scheduled to attend will not be considered as a failure of the examination under Rule 2.3.9.

**2.4. Experience**

- 2.4.1. Candidates for the PG Examination shall have not less than five years of progressive geologic experience obtained after completion of the education requirements as set forth in Rule 2.2.
- 2.4.2. Experience must indicate that, over the course of time, the applicant's work has been of increasing quality and has required greater responsibility.
- 2.4.3. Only experience of a geologic nature which follows graduation from a geology or geologic specialty program may be used to satisfy the experience requirement.
- 2.4.4. Successful completion of graduate study leading to an advanced degree in geology or geologic specialty may satisfy part of the experience requirement.
  - 2.4.4.1. A Master's degree in geology or geologic specialty may be used for credit for one year of experience. A Doctorate degree may be used for credit for two years of experience. No more than two years' experience will be credited based on advanced degrees.
- 2.4.5. Experience should be gained under the direct supervision of a professional geologist or, if not, an explanation should be made showing why the experience should be considered acceptable to the Board.
- 2.4.6. Criteria for determining geologic experience includes part-time work which will be converted to its full-time equivalent.:

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- 2.4.7. Experience may be gained either under the work experience category or education. The applicant cannot claim experience for completion of an advanced degree and work experience while working during the same time period.
- 2.4.8. Experience may not be anticipated and must have been obtained at the time of the application.

**2.5. Application for FG and PG Examinations**

- 2.5.1. To be eligible to sit for the FG Examination, an applicant must:
  - 2.5.1.1. Submit an application on or before the filing deadline established by the Board along with the applicable application fee;
  - 2.5.1.2. Submit two references indicating good character and reputation; and
  - 2.5.1.3. Provide satisfactory evidence of meeting the education requirements set forth in Rule 2.2.
- 2.5.2. To be eligible to sit for the PG Examination, an applicant must:
  - 2.5.2.1. Submit an application on or before the filing deadline established by the Board;
  - 2.5.2.2. Submit four references indicating good character and reputation, two of which are from professional geologists who have personal knowledge of the applicant's geologic experience;
    - 2.5.2.2.1. If the applicant applied for and passed the FG Examination in Nebraska within the last five years, only the two professional geologist references are required.
  - 2.5.2.3. Provide satisfactory evidence of meeting the education requirement as set forth in Rule 2.2;
  - 2.5.2.4. Provide verification of passing the FG Examination. Such verification must be received directly from the licensing jurisdiction in which the examination was taken; and
  - 2.5.2.5. Provide satisfactory evidence of meeting the experience requirement as set forth in Rule 2.4.
- 2.5.3. An applicant may apply for both the FG and PG Examinations concurrently if he or she is eligible to sit for the PG Examination.
- 2.5.4. All examination applications will go to the Board for review and final approval.

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**2.6. Enrollment as a Geologist-Intern**

- 2.6.1. Enrollment as a Geologist-Intern shall be granted upon completion of the following:
  - 2.6.1.1. Passage of the FG Examination as set forth these rules; and
  - 2.6.1.2. Verification of earning a degree in geology or geologic specialty.
- 2.6.2. Enrollment as a Geologist-Intern is not required to sit for the PG Examination or for licensure in Nebraska.

**2.7. Licensure as a Professional Geologist following Examination**

Upon passage of the PG examination, as approved by the Board, a certificate of licensure shall be issued containing the licensee's full name and license number.

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**CHAPTER 3 - LICENSURE OF PROFESSIONAL GEOLOGISTS FROM OTHER JURISDICTIONS**

**3.1. Jurisdictional Comity/Reciprocity Licensure Requirements**

- 3.1.1. Pursuant to Neb. Rev. Stat. § 81-3539(3), a geologist applicant from another jurisdiction may be licensed after the applicant:
  - 3.1.1.1. Files an application with the associated fee;
  - 3.1.1.2. Submits satisfactory evidence of such licensure to the Board;
  - 3.1.1.3. Submits verification that the applicant has passed both the FG and PG Examinations;
  - 3.1.1.4. Submits verification that the applicant has satisfied the education requirements set forth in Rule 2.2.2; and
  - 3.1.1.5. Submits evidence of five years of geology experience that is in compliance with the licensing law in the jurisdiction where the practice occurred.
- 3.1.2. The Board may waive the examination and/or the education requirements if:
  - 3.1.2.1. The applicant has a minimum of fifteen years of licensed experience acceptable to the Board.
  - 3.1.2.2. Such applicants may be required to submit additional information.
- 3.1.3. All license applications will go to the Board for review and final approval.

**3.2. Temporary Permit**

- 3.2.1. Pursuant to Neb. Rev. Stat. § 81-3541(1)(g), a geologist applicant who holds a current and valid license in another state or country may be issued a temporary permit after the applicant:
  - 3.2.1.1. Files an application with the associated fee; and
  - 3.2.1.2. Submits satisfactory evidence of such licensure to the Board.
- 3.2.2. The permit will include a template containing the applicant's name, permit, number, expiration date, and project name and location.
- 3.2.3. The holder of the temporary permit shall use their seal from the state of verified licensure when sealing documents pertaining to the Nebraska project and shall accompany the seal with the template issued by the Board.

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- 3.2.4. Temporary permits expire one year after the date of issuance or upon the issuance of a comity/reciprocal license, whichever occurs first.
- 3.2.5. Applications for temporary permits may be conditionally approved by the Board's designee, until formally considered by the Board.



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**Chapter 4 - CODE OF PRACTICE**

**4.1 All licensees will be guided by the highest standards of personal integrity and professional conduct:**

- 4.1.1 They will pursue honesty, integrity, loyalty, fairness, impartiality, candor, fidelity to trust, inviolability of confidence, and honorable conduct.
- 4.1.2 By applying for or by continuing licensure or certification, they agree to comply with and uphold this Code of Practice.
- 4.1.3 They will not discriminate against others on the basis of gender, age, disability, race, color, religion, marital status, national or ethnic origin, or sexual orientation.

**4.2 Licensees will uphold public health, safety, and welfare in the performance of professional services, and avoid even the appearance of impropriety.**

- 4.2.1 They will observe and comply with the requirements and intent of all applicable laws, codes, and regulations.
- 4.2.2 They will not knowingly participate in any illegal activities, or knowingly permit the publication of their reports, maps, or other documents for an illegal purpose.
- 4.2.3 They will neither offer nor make any illegal payment, gift, or other valuable consideration to a public official for the purpose of influencing a decision by such official; nor shall they accept any payment, gift, or other valuable consideration which would appear to influence a decision made on behalf of the public by them acting in a position of public trust.
- 4.2.4 If they become aware of a decision or action by an employer, client, or colleague which violates any law or regulation, they will advise against such action, and when such violation appears to adversely affect public welfare or the safeguard of life, health, property and the environment, they will advise the appropriate public officials responsible for the enforcement of such law or regulation.
- 4.2.5 They will be accurate, truthful, and candid in all communications with the public.
- 4.2.6 They will not knowingly engage in false or deceptive advertising, or make false, misleading, or deceptive representations or claims in regard to the profession of geology, their own professional qualifications or abilities, or those of other geologists.
- 4.2.7 They will not issue statements or information which they know to be false or misleading even though directed to do so by an employer or client.
- 4.2.8 They will avoid making sensational, exaggerated, and/or unwarranted statements that may mislead or deceive members of the public or any public body.
- 4.2.9 They should participate as citizens and as professionals in public affairs.

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- 4.2.10 Licensees acting in a position of public trust will exercise their authority impartially, and will not seek to use their authority for personal profit or to secure any competitive advantage.
- 4.2.11 They will promote public awareness of the effects of geology and geologic processes on the quality of life.

**4.3 Licensees will serve their employers and clients faithfully and competently within their overall professional obligations.**

- 4.3.1 They will disclose any actual or potential conflicts of interest, which may affect their ability to faithfully serve an employer or client.
- 4.3.2 They will disclose to a prospective employer or client the existence of any owned or controlled mineral or other interest which may, either directly or indirectly, have a bearing on such employment.
- 4.3.3 Licensees having or expecting to have beneficial interest in a property on which they report will state the existence of such interest or expected interest in the report.
- 4.3.4 Licensees employed or retained by one employer or client will not accept, without that employer's or client's written consent, an engagement by another if the interests of the two are in any manner conflicting.
- 4.3.5 They will not accept referral fees from any person to whom an employer or client is referred; however, nothing herein will prohibit them from being compensated by the employer or client for consultation, or for other services actually performed.
- 4.3.6 They will not offer or pay referral fees to any person who refers an employer or client to them; however, nothing herein will prohibit them from compensating the person giving the referral for consultation or for other services actually performed.
- 4.3.7 They will protect, to the fullest possible extent, the interest of an employer or client in a manner that is consistent with public welfare or the safeguard of life, health, property and the environment and the licensee's legal, professional, and ethical obligations.
- 4.3.8 They will not use, directly or indirectly, any confidential information obtained from services for an employer or client which is adverse or detrimental to the interests of the employer or client, except with the prior consent of the employer or client, or when disclosure is required by law.
- 4.3.9 A licensee who has made an investigation for an employer or client will not seek to profit economically from the information gained without written permission of the employer or client, unless it is clear that there can no longer be a conflict of interest with the original employer or client.
- 4.3.10 They will not use their employer or client's resources for private gain without their employer's or client's prior knowledge and consent.

**4.4 Licensees will provide competent service to their employers and clients.**

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- 4.4.1 They will perform only professional services or issue only professional advice which is within the scope of their education and experience, and that of their professional associates, consultants, or employees, and will advise the employer or client of professional advice outside of their personal expertise.
- 4.4.2 They will not give a professional opinion, or submit a report, without being as thoroughly informed as might be reasonably expected, considering the purpose for which the opinion or report is requested.
- 4.4.3 They will engage, or advise an employer or client to engage, and cooperate with other experts and specialists whenever the employer's or client's interest would be best served by such engagement.
- 4.4.4 They will serve their employers and clients diligently and perform their services in a timely manner.
- 4.4.5 Licensees who find that obligations to an employer or client conflict with professional or ethical standards should have such objectionable conditions corrected or they should resign.

**4.5 Licensees will respect the rights, interests, and contributions of their professional colleagues.**

- 4.5.1 They will respect and acknowledge the professional status and contributions of their colleagues.
- 4.5.2 They will give due credit for work done by others in the course of a professional assignment, and will not knowingly accept credit due another.
- 4.5.3 They will not plagiarize another in oral or written communications; use materials prepared by others without appropriate attribution, or make use of the intellectual property of another without appropriate attribution.

**4.6 Licensees will continually strive to improve the profession of geology.**

- 4.6.1 They will strive to improve their professional knowledge and skills.
- 4.6.2 They will cooperate with others in the profession and encourage the dissemination of geologic knowledge.
- 4.6.3 They will work toward the improvement of standards of geologic education, research, training, and practice.
- 4.6.4 They will uphold these standards of professional conduct by precept and example, but also encourage by counsel and advice to other licensees their adherence to such standards.

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- 4.6.5 Licensees having knowledge of another licensee violating the Act, the rules of the Board, or the Code of Practice should bring substantial evidence of such violation to the attention of the Board.

### 4.7 Use of Regulated Titles

- 4.7.1 Professional geologists who are licensed in Nebraska may identify themselves as such.
- 4.7.2 Professional geologists who are not licensed in Nebraska, but who hold a valid license in another licensing jurisdiction:
- 4.7.2.1 May identify themselves as such on correspondence and other routine documents that do not contain an offer to provide geologic services;
  - 4.7.2.2 May identify themselves as such on correspondence and other documents that contain an offer to provide geologic services in Nebraska, if such documents clearly indicate and disclose that the professional geologist:
    - 4.7.2.2.1 Holds a current and valid license in another licensing jurisdiction;
    - 4.7.2.2.2 Does not hold a current and valid license in Nebraska;
    - 4.7.2.2.3 Would have to obtain a license in Nebraska in order to perform the services described in the offer; and
    - 4.7.2.2.4 Has a reasonable likelihood of obtaining a licensed in Nebraska.
- 4.7.3 Individuals who do not hold a current and valid license in any other licensing jurisdiction will not use the title of professional geologist.
- 4.7.4 The following certification titles and terms may be used provided the full name of the organization granting the certification are stated following the use of the term, and the term is not being used in such a manner that they tend to, or are likely to create any impression with the public or any member thereof, that the individual is a professional geologist as defined in the Geologists Regulation Act and these Rules:
- 4.7.4.1 Certified Professional Geologist or CPG as used by the American Institute of Professional Geologists.
  - 4.7.4.2 Certified Petroleum Geologist or CPG as used by the American Association of Petroleum Geologists-Division of Professional Affairs.
  - 4.7.4.3 Certified Ground Water Professional or CGWP as used by the National Groundwater Association.

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**CHAPTER 5 - ENFORCEMENT**

**5.1 Initial Review of Complaints or Compliance Issues**

- 5.1.1 When a complaint is received by the Board in which a person is alleged to have violated the Act and/or Title 171 NAC, or the Board becomes aware of a compliance issue that may constitute a violation of the Act and/or Title 171 NAC, the Board may refer the complaint or compliance issue to a committee or an investigator, or may consider the complaint or compliance issue without such referral.
- 5.1.2 If applicable, the committee or investigator shall make a recommendation as to:
  - 5.1.2.1 Whether the matter should be dismissed for lack of probable cause; or
  - 5.1.2.2 Whether there is probable cause that a violation of the Act and/or Title 171 NAC has occurred; or
  - 5.1.2.3 Whether further investigation is required in order to determine whether there is probable cause.
- 5.1.3 Upon receipt of a recommendation or upon consideration by the Board, the Board will determine whether there is probable cause and, if so, whether the informal or formal process should be undertaken to resolve the matter. If the Board finds there is no probable cause, the complaint shall be dismissed. The Board may make a determination on probable cause with or without having requested a response from the respondent.

**5.2 Informal Process**

The Board may utilize the informal process as described below in lieu of, or as a prerequisite for, entering into a formal process.

- 5.2.1 The respondent shall be entitled to copies of the complaint and all information upon which the probable cause determination was made.
- 5.2.2 The Board and the respondent may reach an agreement as to the terms of the resolution of the matter without the respondent's appearance before the Board.
- 5.2.3 If an agreement is not reached without the appearance of the respondent, the respondent will be requested in writing to appear before the Board for an informal discussion of the matter.
  - 5.2.3.1 The Board may, but need not, request any other party involved in the complaint to appear along with the respondent. Such appearance is voluntary and cannot be compelled.
  - 5.2.3.2 Copies of the documents referred to in Rule 5.2.1 shall be provided to the respondent no later than the time the request to appear is made.

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- 5.2.4 At the scheduled meeting with the Board, the Board shall clearly state to the party or parties that the meeting is informal and that no individual will be giving up their rights to due process by participating in the informal process.
- 5.2.5 The Board may request that a party or parties bring material, documents, or exhibits to facilitate the informal discussion with the Board.
- 5.2.6 The matter will be resolved if the Board and the respondent can reach terms of mutual agreement on the issues, and a consent agreement or such document is executed on those terms. Acceptable terms may include, but are not limited to professional education, limitations on practice, civil penalties, and assessment of fees and/or costs.
- 5.2.7 The Board may separate issues within a complaint into those that can be resolved with an informal process from those that must be resolved under the formal process.
- 5.2.8 The respondent's participation in the informal process is voluntary, not mandatory.

**5.3 Formal Process**

- 5.3.1 The procedure for hearings regarding matters not resolved by the informal process shall be in accordance with Title 53, NAC, Chapter 4 of the Nebraska Department of Justice. Board's receipt of a complaint shall not constitute the initiation of a formal process.
- 5.3.2 Any person aggrieved by a final decision in a contested case is entitled to judicial review under the Nebraska Administrative Procedures Act, or resort to such other means of review as may be provided by law.

**5.4 Failure to Comply with Board Orders**

If any person refuses to obey any decision or order of the board, enforcement proceedings may be commenced in the appropriate district court in accordance with Neb. Rev. Stat § 81-3533.

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**CHAPTER 6 - THE LICENSEE SEAL**

**6.1 Use of the Seal**

- 6.1.1 The purpose of the seal is to assist in identification of the professional geologist responsible for the work performed under the requirements of the Act.
- 6.1.2 The seal used by a professional geologist shall be legible, whether an embossing, computer generated, or other type of seal. In the absence of legibility, the seal is invalid.
- 6.1.3 The responsible professional geologist shall identify all work that they have prepared, as well as all work that has been prepared under their direct supervision, by applying their seal to the cover page of geologic reports or other geologic documents bound in book form as well as on each and every original sheet of unbound geologic drawings, cross sections, or maps whenever these documents are presented to a client or any public or governmental agency.
- 6.1.4 Sealing of documents, when the underlying work was not performed by or under the direct supervision of a professional geologist is prohibited.
- 6.1.5 Preliminary documents shall identify the purpose of the document, the professional geologist of record with their license number and the release date by placing the following text or similar wording instead of a seal: "This document is released for the purpose of (purpose of document) under the authority of (professional geologist and license number) on (date)."
- 6.1.6 When sealing plans or documents on which two or more professional geologists have worked, the seal of each professional geologist shall be placed on the plan or document with a notation describing the work done under each professional geologist's direct supervision.
- 6.1.7 No seal shall be valid unless signed across the face of the seal with the professional geologist's name and the date on which the material was signed.
- 6.1.8 Professional geologists are responsible for providing adequate security over their seal and signature wherever it appears, regardless of whether the seal and signature is produced electronically or by other means.

**6.2 Use of Seal on Supervised Work**

- 6.2.1 In order to exercise full professional knowledge of and control over work, a professional geologist intending to affix their seal on geologic documents must:
  - 6.2.1.1 Have and exercise the authority to review and to change, reject, or approve both the work in progress and the final work product, through a continuous process of examination, evaluation, communication, and direction throughout the development of the work;

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- 6.2.1.2 Be personally aware of the project's scope, needs, parameters, limitation, and special requirements;
  - 6.2.1.3 Be capable of answering questions relevant to the geologic decisions made as part of the services provided, in sufficient detail to demonstrate reasonable knowledge of and proficiency in the work; and
  - 6.2.1.4 Be reasonably satisfied with the product of the services rendered and accept full responsibility of the work.
- 6.2.2 The Board has final authority regarding the determination of whether technical documents were actually prepared under the direct supervision of the professional geologist.



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**CHAPTER 7 – ORGANIZATIONAL PRACTICE**

**7.1 Applications**

- 7.1.1 Organizations practicing or offering to practice geology in Nebraska shall apply to the Board for a certificate of authorization.
- 7.1.2 The Board will review the organization's application and issue a certificate of authorization if the minimum requirements are satisfied.
- 7.1.3 Certificates of authorization are valid for two years from issuance.
- 7.1.4 A certificate of authorization may be renewed for two years upon submission of the renewal application and appropriate renewal fee prior to the expiration of the certificate.
  - 7.1.4.1 An expired certificate may be renewed without penalty up to one year after expiration.
  - 7.1.4.2 After one year, an expired certificate requires a new application and the appropriate application fee along with meeting the certificate requirements in place at that time.
- 7.1.5 The certificate of authorization may be used to file any applications with the Nebraska Secretary of State to fulfill the appropriate statutes and requirements for practicing in Nebraska as a corporation, partnership, limited liability company, professional corporation, or other such organizational designation appropriate under Nebraska law except sole proprietorships do not require a certificate.
- 7.1.6 Applications for certificates of authorization may be conditionally approved by the Board's designee upon review and determination that the minimum requirements set forth herein and in the Geologists Regulation Act have been met, formally considered approved by the Board.

**7.2 Minimum Requirements**

- 7.2.1 The requirements for an organization to practice or offer to practice geology in Nebraska is to have at least one professional geologist who is licensed to practice in Nebraska and an employee who regularly performs geologic services for the organization for the duration of the certificate of authorization.
- 7.2.2 The signature of the professional geologist must appear on the application.
- 7.2.3 The professional geologist whose signature appears on the application may or may not have ownership interest in the organization.
- 7.2.4 The applicant must pay the appropriate application fee.

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- 7.2.5 An individual who has elected emeritus status is not eligible to sign as an organization's professional geologist on the application.
  
- 7.2.6 Should the professional geologist who has signed the application leave the organization, die, or lose their signatory authority, the organization has thirty days to notify the Board and file an amendment to its application identifying a new professional geologist with signatory authority.

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