



S T A T E O F N E B R A S K A

BOARD OF EXAMINERS FOR LAND SURVEYORS • STEVEN C. COBB, SECRETARY

October 28, 2015

Professional Surveyors Association of Nebraska Board and members
813 Marian Rose Ave.
Herman, NE 68029

Re: LB138 and Board of Examiners for Land Surveyors Rule and Regulation changes

PSAN Board and members,

This letter is to notify the PSAN Board of proposed changes to the Rules and Regulations of the Board of Examiners for Land Surveyors.

LB138, a bill submitted to the Nebraska Legislature by the Board of Examiners for Land Surveyors was introduced January 9, 2015 by Senator Jerry Johnson from Wahoo (District 23), signed by the Governor May 26, 2015 and became law August 30, 2015.

LB138 amended Sections 23-1901, 23-1908, 23-1911, 39-1311.02, 81-8,108, 81-8,109, 81-8,110.01, 81-8,110.07, 81-8,118, 81-8,119.01, 81-8,120, 81-8,122.01, 81-8,123, 81-8,126, and 81-8,127 of the Revised Statutes of Nebraska. LB138 named the Land Surveyors Regulation Act, provided for a code of practice for land surveyors, harmonized provisions, and repealed the original sections.

The Board of Examiners for Land Surveyors is now in the process of amending the Rules and Regulations of the Board to harmonize with LB138. A brief explanation of the amendments to the Rule and Regulations follow.

Code of Practice

Creation of a new Chapter 8.

The amendment adds the Code of Practice to the Rules and Regulations. The sections of the Code of Practice set forth the purpose of the Code, the registrant's obligation to the public, the registrant's obligation to employers and clients, and the registrant's obligation to other registrants. The Code of Practice is intended to provide an ethics standard for the professional practice of land surveying.

Chapter 2 – 008

Application for inactive status.

The requirement to include the personal seal with the application for inactive status has been removed.

Chapter 6 – 004

Reinstatement of canceled registration.

The requirements and penalty for reinstatement have been added.

Chapter 7 – 002

Updated to remove prior and effective dates.

The prior and effective dates have now expired and will be removed.

Amendments to harmonize the Rule and Regulations.

General format and language amendments.

All references to statutes have been amended to a consistent format and language.

All references to the Secretary have been amended to consistent language.

All references to payments to the Board have been amended to consistent language.

All chapters renumbered as necessary.

A complete draft of the proposed rule and regulation modifications may be found on the Board of Examiners for Land Surveyors web page at <http://www.nbels.nebraska.gov/>.

Notification of a public hearing to be held at the office of the Board of Examiners for Land Surveyors will be announced at a future date.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven C. Cobb", with a long horizontal flourish extending to the right.

Steven C. Cobb, Secretary

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NEBRASKA ADMINISTRATIVE CODE

Title 234- Board of Examiners for Land Surveyors – Agency 62

Effective Date: 5/3/2014

Chapter - 1 - Classes of Applicants:

001. Class 1 shall include all applicants applying for registration as a land surveyor under ~~Section~~ section 81-8,117, ~~R.R.S.~~, who may be eligible for examination on the basis of registration as a surveyor-in-training in Nebraska or another state which maintains standards equal to or greater than those of Nebraska, 6 years of practice, satisfactory to the Board, and proof of educational and professional qualifications, 5 of such 6 years must be in land surveying as defined in ~~Section~~ section 81-8,109, ~~R.R.S.~~ and 3 of such 5 years must be in a responsible position as a subordinate to a licensed land surveyor. Responsible position shall mean a position that requires initiative, skill and independent judgment; this term excludes chainman, rodman, instrument person, ordinary drafter and others doing routine work. Class 1 shall also include applicants who may be eligible for examination on the basis of graduation, after a course of not less than four years in surveying, engineering or other approved curriculum, with proportionate credit for lesser time, from a school or college approved by the Board as of satisfactory standing, an additional two years of practice in a responsible position and registration as a surveyor-in-training in Nebraska or another state which maintains standards equal to or greater than those of Nebraska. Sec. 81-8,117

002. Class 2 shall include all applicants, who are residents or nonresidents of the State of Nebraska applying for registration as a land surveyor under ~~Section~~ section 81-8,120, ~~R.R.S.~~, who are registered in another state, which maintains standards equal to or greater than those required by the State of Nebraska. Sec. 81-8,120

003. Class 3 shall include all applicants applying for registration as a surveyor-in-training under ~~Section~~ section 81-8,109, (3), ~~R.R.S.~~, who may be eligible for examination on the basis of four years practice or training, satisfactory to the Board, and proof of educational and professional qualifications. Class 3 shall also include applicants who may be eligible for examination on the basis of graduation, after a course of not less than four years in surveying, engineering or other approved curriculum, with proportionate credit for lesser time, from a school or college approved by the Board as of satisfactory standing. Sec. 81-8,109

004. Class 4 shall include all applicants applying for inactive registration under ~~Section~~ section 81-8,119.01, ~~R.R.S., 1943~~, who may be eligible based upon holding an active registration to practice land surveying in the State of Nebraska. Sec. 81-8,119.01

Chapter - 2 - Application for Registration:

001. Application forms for registration as a land surveyor and surveyor-in-training may be obtained from the office of the Secretary of the Board of Examiners for Land Surveyors. Sec. 81-8,114

002. Applications must be filed with the Secretary and must be typed or neatly lettered in ink on forms prescribed and furnished by the Board. To be acceptable they must be filled out completely and in the detail required. Sec. 81-8,114

003. No application for registration as a land surveyor will be accepted unless it is accompanied by a check, draft or money order in the amount of \$40.00 made payable to ~~the Secretary of the~~ Board of Examiners for Land Surveyors. The fee shall be considered an application fee and shall not be returned to applicants who are unsuccessful for any reason. Sec. 81-8,118

004. No application for registration as a surveyor-in-training will be accepted unless it is accompanied by a check, draft or money order in the amount of \$40.00 made payable to ~~the Secretary of~~ Board of Examiners for Land Surveyors. The fee shall be considered an application fee and shall not be returned to applicants who are unsuccessful for any reason. Sec. 81-8,109

005. All information received from references named by the applicant shall be held in confidence by the Board. No member of the Board shall be named as a reference. Sec. 81-8,109 and 81-8,118

006. An applicant shall not be admitted to the examination until satisfactory replies have been received from a minimum of 3 of his or her references. It is suggested that each applicant contact his or her references to avoid delay. Sec. 81-8,110.08

007. Application for inactive classification may be made by submitting a request in writing to the Secretary of the Board. Sec. 81-8,119.01

008. No application for inactive classification will be accepted unless it is accompanied by his or her personal seal or a sworn statement certifying its loss or destruction and a check, draft or money order in the amount of \$50.00 made payable to the Secretary of the Board of Examiners for Land Surveyors. The fee shall be considered an application fee and shall not be returned to applicants for any reason. Sec. 81-8,119.01

Chapter - 3 - Examinations:

001. Examinations shall be conducted as prescribed in ~~Sections~~ sections 81-8,108 to 81-8,127, ~~R.R.S., 1943, as amended,~~ at such times and places as the Board may designate. The Board on its own motion and/or the Secretary may conduct the examination in a manner which provides security, harmony, reduces the risk of plagiarism and is not in conflict with these rules. Sec. 81-8,110.08

002. The application for registration is a part of the examination. Each applicant must show to the satisfaction of the Board that he or she meets at least the minimum requirements set forth in ~~Sections~~ sections 81-8,109 to 81-8,127, ~~R.R.S., 1943, as amended,~~ before he or she will be admitted to any examination. Failure to meet the minimum requirements of these sections of the act shall be interpreted as if it were a failure in the examination with retention of the application fee. However, the Board may continue consideration of an application for one year wherein the applicant has an experience deficiency of less than one year, or other valid reason, and without causing forfeiture of the application fee. Any applicant which has been denied registration as a land surveyor in Nebraska due to failure of the examination must show proof of completion of fifteen (15) hours of professional development as defined in Rule 10, paragraph 002, subparagraphs 002.06 and 002.08 before any new application shall be approved. Sec. 81-8,109 through 81-8,123

003. Upon receipt of an application and the application fee, the Secretary shall acknowledge the application and advise the applicant that the routine of making the necessary investigations will be followed and that he or she will be notified no later than twenty (20) days before the examination whether he or she will be admitted to it. Sec. 81-8,110.08

004. A postponement of an examination or reexamination may be granted to any applicant once for each application. Any individual who has received a postponement for either an examination or reexamination shall not be eligible for postponement again until he or she has filed and the Board has approved a new application. If an applicant wishes to postpone an examination he or she shall notify the ~~Secretary of the Board~~ to that effect prior to the date of said examination. Failure to notify the Secretary as prescribed will be counted as an appearance at and a failure of the examination. Sec. 81-8,110.08

005. The examination for registration as a land surveyor shall be on the professional practice of land surveying. Sec. 81-8,115

006. The examination for surveyor-in-training shall be on the fundamentals of land surveying. Sec. 81-8,110.08

007. Each applicant shall submit with his or her application a digest of his or her training and experience. No one shall be eligible for examination until he or she has had the minimum experience required in ~~Sections~~ sections 81-8,108 to 81-8,127, ~~R.R.S., 1943 as amended~~. Sec. 81-8,109; 81-8,114 and 81-8,117

008. Each applicant may be called before the Board for a personal interview. Sec. 81-8,110.08

009. The applicant must pass the examination to qualify for registration. The examination grade must be certified by the National Council of Examiners for Engineers and Surveyors (NCEES) and/or the Secretary of the Board. The ~~Secretary of the Board~~ will report to the Board the results of the examination. Upon receipt of the ~~Secretary of the Board's~~ report the Board will determine which applicants have passed the examination. Sec. 81-8,110.08

010. If an applicant fails to qualify for registration due to failure of the examination he or she may be re-examined once at the discretion of the Board without submitting a new application. Sec. 81-8,118

011. Upon notification by the Board that a land surveyor applicant has passed the examination he or she shall submit a registration fee not to exceed one hundred dollars (\$100.00) in the form of a check, draft or money order made payable to ~~the Secretary~~ of the Board of Examiners for Land Surveyors. Upon notification by the Board that a surveyor-in-training applicant has passed the examination he or she shall submit a registration fee not to exceed twenty dollars (\$20.00) in the form of a check, draft or money order made payable to ~~the Secretary~~ of the Board of Examiners for Land Surveyors. Sec. 81-8,118

012. The Secretary shall submit to all applicants for registration by reciprocity a questionnaire relative to surveying laws in Nebraska and the Secretary shall interview and examine all applicants for registration by reciprocity. The interview and examination must be completed within two years after notification by the Board. Sec. 81-8,120

013. Applicants for inactive registration as prescribed in Chapter 1, paragraph 004. of these rules shall not be required to take an examination. Sec. 81-8,119.01

014. Holders of an inactive registration applying for active registration shall be required to successfully complete the same examination as a surveyor-in-training applying for registration as a land surveyor. Provided, the board shall waive the written portion of the examination if the applicant elects to demonstrate proficiency by providing proof of professional development. Proof of professional development shall mean completing professional development hours as

defined in Chapter 101 of these rules. The applicant shall be required to complete forty-five (45) PDHs. All PDHs required must be obtained during the time the applicant's registration has been inactive. The PDHs required shall be reported on the form provided by the Board and the applicant shall provide supporting documentation. Any professional development hours which are used to apply for active registration shall be used for that purpose exclusively and shall not count in any other requirements in these rules. Sec.81-8,119.01

Chapter - 4 - Rejections:

001. When an applicant is rejected for any cause, the unsuccessful applicant shall be notified as promptly as practicable and informed of the reason for his or her rejection. Sec. 81-8,110.08

Chapter - 5 - Duplicate Certificate of Registration:

001. Upon application, accompanied by a full statement of the circumstances of loss or destruction of the original, a duplicate registration certificate may be issued at the discretion of the Chairman and/or Secretary ~~of the Board~~. The fee for issuing a duplicate registration certificate shall be \$50.00 in the form of a check, draft or money order made payable to the Board of Examiners for Land Surveyors. Sec. 81-8,110.13

002. The duplicate certificate, issued, shall bear the same number as the original. Sec. 81-8,110.13

Chapter - 6 - Notice of Biennial Fee:

001. Prior to November 1 of each even numbered year, the Secretary shall notify all persons currently registered of the current renewal requirements. This notice shall include the current biennial fee and the form for Professional Development as required in Chapter 101.

Sec.81-8,110.08; 81-8,118 and 81-8,119.02

002. Any registrant applying for renewal must return the Application for Renewal, Professional Development Form and the appropriate fee to be received by the Office of the Secretary on or before January 2 of each odd numbered year. Sec. 81-8,118 and 81-8,119.02

003. Any registration which has not been renewed for the next biennium will be canceled on April 1 immediately following. The Secretary will immediately remove said registrations from the active roster and within fifteen (15) days, notify said registrant by registered mail. Sec. 81-8,118 and 81-8,119.01

004. Any registrant so canceled may, prior to January 2nd following, reinstate the registration by submitting the required Application for Renewal, Professional Development Form and appropriate fee. The fee for reinstatement shall be the same as the biennial fee but shall be increased ten percent for each month or fraction of a month the payment is delinquent, beginning January 2. Any registrant so canceled may, on or after January 2nd following, reinstate the registration by submitting the required Application for Renewal, Professional Development Form and appropriate fee. The fee for reinstatement shall be the same as the biennial fee plus a one hundred and twenty dollar delinquent fee. Upon receipt of the appropriate fee and approval of the required Application for Renewal and the Professional Development credits the Board shall reinstate said registration for the remainder of the

biennium. Nothing in this rule shall be construed as reducing the required credits for Professional Development as shown in Chapter 101. Any registrant being reinstated shall meet the same requirements for Professional Development as if his or her registration had been in full force and effect for the same period of time. Sec.81-8,118 and 81-8,119.02

005. Registrants applying for renewal of inactive registrations are not required to submit a form for professional development. Sec. 81-8,119.01

Chapter - 7 - Biennial Renewal:

001. Upon receipt of the renewal fee in the amount of one hundred dollars (\$100.00) in the form of a check, draft or money order made payable to the Board of Examiners for Land Surveyors, compliance with all applicable rules and approval of the Board, the Secretary ~~of the Board~~ shall issue a "Renewal of Registration" card to each registrant whose registration is in full force. Such renewal shall be for the next biennium unless canceled, suspended or revoked by the Board. The biennial fee shall be considered an application fee and shall not be returned to applicants who are unsuccessful for any reason. Sec. 81-8,110.08

002. ~~Prior to January, 2014, upon receipt of the renewal fee in the amount of twenty dollars (\$20.00), compliance with all applicable rules and approval of the Board, the Secretary of the Board shall renew the registration of each surveyor-in-training. Such renewal shall be for the next biennium unless canceled or revoked by the Board. The biennial fee shall be considered an application fee and shall not be returned to applicants who are unsuccessful for any reason. Effective January 1, 2014, The biennial renewal requirement of~~ does not apply to the registration of each surveyor-in-training ~~will expire.~~ Sec. 81-8,110.08

003. Upon receipt of the renewal fee in the amount of fifty dollars (\$50.00) in the form of a check, draft or money order made payable to the Board of Examiners for Land Surveyors, compliance with all applicable rules and approval of the Board, the Secretary ~~of the Board~~ shall renew the registration of each inactive registrant. Such renewal shall be for the next biennium unless canceled or revoked by the Board. The biennial fee shall be considered an application fee and shall not be returned to applicants who are unsuccessful for any reason. Sec. 81-8,119.01

004. The registration biennium shall begin on April 1 of odd numbered years and continue until April 1 of odd numbered years. Sec. 81-8,118

Chapter - 8 – Code of Practice:

In order to establish and maintain a high standard of integrity, skills and practice in the profession of land surveying and to safeguard life, health and property the following code of practice shall be binding upon every person registered as a professional land surveyor in this state.

001. Obligation to the Public

001.01. The registrant, in practicing land surveying, shall be cognizant that his or her first and foremost responsibility is to the public welfare and act with reasonable care and competence and apply technical knowledge and skill ordinarily applied by land surveyors of good standing to safeguard life, health and property of the public.

001.02. The registrant shall approve and seal only those surveys and related documents that conform to accepted land surveying standards.

001.03. The registrant shall notify his or her employer or client and such other authority as may be appropriate when the registrant's professional judgment is overruled under circumstances where the life, health and property of the public is endangered.

001.04. The registrant shall not, in the conduct of his or her professional practice, knowingly violate any state or federal criminal law.

001.05. The registrant shall comply with the laws and rules governing their professional practice in any United States jurisdiction.

001.06. The registrant shall not engage in conduct involving fraud or wanton disregard of the rights of others.

001.07. The registrant shall not engage in grossly immoral or dishonorable conduct which would provide evidence of unfitness to perform the tasks required by clients or would provide evidence of a degree of proficiency which is not sufficient to safeguard life, health and property of the public.

001.08. The registrant making public statements on land surveying questions, shall disclose when he or she is being compensated for making such statements.

001.09. The registrant possessing knowledge of a violation of these rules and state statutes by another registrant shall report such knowledge to the board.

002. Obligation to Employers and Clients

002.01. The registrant shall undertake to perform professional services only when he or she, together with those whom the registrant may engage as consultants, is qualified by education, training, and experience in the specific technical areas involved.

002.02. The registrant shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

002.03. The registrant shall make full prior disclosures to a prospective or existing client or employer of his or her conflicts of interest or other circumstances which could influence or appear to influence the registrant's judgment or quality of service.

002.04. The registrant shall not affix his or her signature or seal to any work pertaining to any technical discipline or specialty in which the registrant lacks education, experience or competence.

002.05. The registrant shall not affix his or her signature or seal to any work not prepared by the registrant nor to any work not prepared under the registrant's direct supervision without thorough technical review by the registrant.

002.06. The registrant shall neither offer nor give any gift of significant value, or any monetary payment, to a government official, prospective or existing client or employer with the intent of influencing judgment in connection with a prospective or existing project in which the registrant is interested or has an interest.

003. Obligation to other Registrants

003.01. The registrant shall not falsify or permit misrepresentation of his or her, or their associates', academic or professional qualifications. He or she shall not misrepresent or exaggerate his or her degree of responsibility in prior assignments nor the complexity of said

assignments. Presentations regarding solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments.

003.02. The registrant shall not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in connection with his or her application for licensure or renewal or otherwise requested by the board.

003.03. The registrant shall not assist the application for registration of a person known by the registrant to be unqualified in respect to education, training, experience, or character.

003.04 The registrant shall notify the board within 30 days if another state has disciplined him or her with a reprimand, censure, suspension, temporary suspension, probation, revocation, voluntary surrender or refusal to renew a license.

Chapter - ~~89~~ - Complaints:

001. The Board may upon its own motion, and shall upon the sworn complaint in writing of any person, investigate the actions of any registered land surveyor or inactive registrant. It shall have the power to place any land surveyor on probation or to revoke or suspend any registration under the provisions of R.R.S. 81-8,108 to 81-8,125. Sec. 81-8,108 through 81-8,125

002. The Board may, in the performance of its investigation, request the surveyor or inactive registrant to appear before the Board to aid in the investigation. Sec. 81-8,108 through 81-8,125

003. The Board may retain any persons it deems appropriate to aid in its investigation of any surveyor or inactive registrant. The Chairman may appoint a committee to investigate the surveyor or inactive registrant upon a motion of the Board. Sec. 81-8,108 through 81-8,125

004. Hearings on all complaints regarding land surveyors shall be in compliance with Chapter 142. Sec. 81-8,110.08

005. Hearings on all complaints regarding inactive registrants shall be in compliance with Chapter 142, paragraph 006. Sec. 81-8,119.01 and 81-8,119.02

006. The Board shall have the power to revoke the registration of any inactive registrant found guilty of actively practicing land surveying. Sec. 81-8,119.01

Chapter - ~~910~~ - Disciplinary Actions:

001. The Board may revoke or suspend the registration of any land surveyor or place any land surveyor on probation when such land surveyor has been found guilty of: (1) fraud or deceit in obtaining a registration; (2) negligence or incompetency in the performance of his or her duties; (3) misconduct in the performance of his or her duties; or (4) failure to file a record of survey as provided in ~~Section~~ section 81-8,122.01, ~~R.R.S., 1943~~. Before the Board shall take such disciplinary action the applicant or registrant shall be given a hearing as provided in ~~Sections~~ sections 81-8,124 to 81-8,125, ~~R.R.S., 1943~~ conducted according to Chapter 142 and all other applicable rules and statutes. Sec. 81-8,122.01; 81-8,124 and 81-8,125

002. The Board may revoke the registration of any inactive registrant when such registrant has been found guilty of: (1) fraud or deceit in obtaining a registration; (2) negligence or incompetency in the performance of his or her duties while actively registered; (3) misconduct in the performance of his or her duties while actively registered; (4) failure to file a record of survey as provided in ~~Section~~ section 81-8,122.01, ~~R.R.S., 1943~~ while actively registered; or (5) actively practicing land surveying while inactively registered. Before the Board shall take such disciplinary action, the applicant or registrant shall be given a hearing as provided in ~~Sections~~ sections 81-8,124 to 81-8,125, ~~R.R.S., 1943~~ conducted according to Chapter 142 and all other applicable rules and statutes. Sec. 81-8,119.01; 81-8,122.01; 81-8,124 and 81-8,125

003. The "Minimum Standards for Surveys" published, approved and recommended by the Professional Surveyors Association of Nebraska at its annual meeting in February 1989 is hereby made part of these rules and regulations as Addendum A. The "Minimum Standards for Improvement Location Surveys" is hereby made part of these rules and regulations as Addendum B. The Board in consideration of any action based upon negligence, incompetency

or misconduct of any land surveyor or inactive registrant shall use these above noted addendums and all publications to which they refer. The use of these standards shall be the guideline for practice but shall not prevent the Board from using its collective experience and judgement to determine when negligence, incompetency or misconduct has occurred in any specific instance.

004. Any registered land surveyor or inactive land surveyor who received his or her registration based upon registration in another state shall be subject to disciplinary action based entirely upon actions taken by that state. In the event that said state revokes such registration the Board shall revoke the Nebraska registration. In the event that said state suspends such registration the Board shall suspend the Nebraska registration for a similar period. Any revocation or suspension implemented under this paragraph shall become effective 30 days after the action of the Board unless appealed by the registrant. In the event of an appeal the registrant shall be given a hearing conducted according to Chapter 142 and all other applicable rules and statutes. Sec. 81-8,124 and 81-8,125

Chapter - ~~40~~11 - Professional Development:

001. As a condition for renewal of a Certificate of Registration for the Practice of Land Surveying a surveyor shall be required to successfully complete thirty (30) hours of professional development within the preceding two calendar years. Any certificate holder who completes in excess of thirty (30) hours of professional development within the preceding two (2) calendar years may have the excess, not to exceed fifteen (15) hours, applied to the requirement for the next biennium. All PDHs must be obtained during the time the surveyor's registration has been active. Professional development credits which apply to paragraph 008. of this Chapter and/or paragraph 013. of Chapter 3 shall be used for that purpose exclusively and shall not be used to comply with the requirements for this paragraph. Sec. 81-8,119.01

002. Professional Development Hours shall be credited based on the following list:

Sec.81-8,119.02

002.01 The active full-time teaching of land surveying as defined in R.R.S., 81-8,109., at the college level within the immediate preceding two calendar years shall be counted as 3 PDH per calendar year. In no case shall PDHs be issued for partial fulfillment of a calendar year in this rule and no more than 6 PDH shall be issued for teaching at the college level in any renewal period.

002.02 Membership in a local, regional, state or national society which is directly related to the practice of land surveying shall be counted as 1 PDH per society per calendar year with a maximum credit of 4 PDH in this category in any renewal period.

002.03 Serving as a member of a board or commission which has as its primary duty the registration and review of land surveyors, such as the state boards of registration, shall be counted as 1.0 PDH per calendar year.

002.04 Serving as a member of a committee of a board or commission which has as its primary duty the preparation and grading of written tests which are given for the purpose of determining the proficiency of an applicant for registration as a land surveyor shall be counted as 5.0 PDH per calendar year.

002.05 Organizing a conference and seminar with a duration of a minimum of 4 hours which is directly related to land surveying shall be counted as 1.5 PDH.

002.06 Attendance at workshops or seminars which are directly related to land surveying shall be counted as 1.0 PDH per actual hour of attendance. Such sessions must be planned in advance, a record must be maintained describing the content and the sponsoring organization must certify attendance.

002.07 Teaching a workshop or seminar which is directly related to land surveying shall be counted as 2.0 PDH per actual hour of teaching time, not to include preparation.

002.08 College level courses directly related to land surveying shall be counted as 30 PDH per credit hour and 15 PDH per credit hour for extension or correspondence courses which are directly related to land surveying and are not college level.

002.09 Presentation and/or publication at a technical meeting of a professional paper, authored by the presenter, directly related to land surveying shall be counted as 5.0 PDH per paper. The maximum allowable under this paragraph shall be 15.0 PDH in any renewal period.

003. Each registrant applying for renewal shall be required to submit a statement of his or her Professional Development Hours obtained in the period defined in paragraph 001. of this Chapter. Should the registrant desire to have any excess PDHs applied to the requirement for the next biennium it shall be so stated in the space provided on said form. If the Board should, for any reason, deny or modify the registrants request for carry-over the Secretary shall notify the registrant of such action on or before the immediately following April 15. The registrants submittal shall be on a form provided by the Board and shall contain a statement, signed by the registrant, which certifies the correctness thereof. Such statement shall accompany and be filed with the registrant's request for renewal. Sec. 81-8,119.02

004. The Secretary ~~of the Board~~ shall select from the list of potential renewal registrants each biennium a percentage, determined by the Board, which shall be audited for compliance with paragraph 001. This list shall be selected by random method using the registrant's registration number. All applicants who have received extensions to complete PDHs in the prior renewal period shall be added to the audit list. Sec. 81-8,119.02

005. Any registrant who has submitted a correctly completed statement as required in paragraph 003., has met all other requirements and whose name does not appear on the audit list defined in paragraph 004. shall be granted registration by the Secretary. Sec. 81-8,119.02

006. When a registrant whose number appears on the audit list applies for renewal the Secretary shall obtain documentation from the registrant showing detailed accounting of the

various PDHs claimed by the registrant. The Secretary shall attempt to verify the PDHs shown on the documentation provided by the registrant. The Secretary shall then review the documentation and verification. Upon completion of the review the Secretary shall prepare a recommendation to the Board stating whether the registrant's PDHs meet the requirements of paragraph 001. and 002. Sec. 81-8,119.02

007. The Board shall review all documentation and the Secretary's recommendations of all registrants shown on the audit list. If the Board determines the registrant has met the requirements the registrant shall be granted registration. If the Board determines the registrant has not met the requirements the registrant shall not be registered. Any registrant denied registration by renewal shall be notified by the Secretary by registered mail within 15 days of said denial. Sec. 81-8,119.02

008. A registrant applying for renewal may be given an additional year to make up all outstanding required PDHs providing he or she can show good cause why he or she was unable to comply with such requirements. In order to be eligible for such extension the request must be filed at the same time he or she applies for renewal. Any requests for extension filed after the filing of the renewal shall be automatically denied by the Secretary. The registrant must state the reason for such extension along with whatever documentation he or she feels is relevant. The Board shall rule on all requests for extensions. The Board shall consider requests which are based upon extensive travel outside of the United States, extended illness of the registrant or their immediate family or a death in the immediate family of the registrant. The Board shall issue an extension when it determines that one or more of these criteria have been met and that the situation has rendered it impossible for the registrant to obtain the required PDHs. The Board shall determine the number of hours of Professional Development for which the extension applies at the time it is granted. A registrant who has successfully applied for an

extension under this paragraph shall make up all outstanding required hours of Professional Development as determined by the Board within the next calendar year. Any registrant applying for extension shall have all Professional Development Hours for the biennium and the extension, if granted, audited as provided in paragraphs 006. and 007. of this Chapter. Any Professional Development Hours which are used to satisfy the requirement of an extension shall be used for that purpose exclusively and shall not count in any other requirements in these rules. Sec. 81-8,119.01

009. Any registrant denied renewal pursuant to this chapter may contest said ruling by filing an appeal pursuant to Chapter 142 of these rules. Such appeal must be filed within 30 days of notification of denial by the Board. All appellants shall be entitled to a hearing as prescribed in Chapter 142, paragraph 006. of these rules. Such hearing shall be held within 90 days of filing of appeal. The decision of the Board on all such appeals shall be final. The current registration of the appellant shall be extended during the appeal process. The extension of registration shall run from the date of filing of the appeal until the Board reaches it's final decision. Sec. 81-8,119.01

Chapter - ~~44~~12 - Hearings:

001. Location: Hearings shall be held in Nebraska at a location designated by the Secretary of the Board. Sec. 81-8,110.08

002. Appearance Before the Board: Practice of law before the Board shall be governed by the statutes of the State of Nebraska and the decisions of the Supreme Court. Nothing herein contained shall prevent anyone from transacting his or her own business before the Board. In the event of an appearance by some person on the behalf of some other party, that person appearing must fulfill one of the two following conditions: Sec. 81-8,110.08

002.01 Be admitted to practice law before the Nebraska Supreme Court.

002.02 Be admitted to practice law before the supreme court of any other state and be associated with a person admitted to practice law before the Nebraska Supreme Court.

003. Parties: Parties appearing before the Board shall be designated as one of the following: Sec. 81-8,110.08

003.01 Applicants: In all proceedings involving applications for registration or renewal under ~~Sections~~ sections 81-8,108 to 81-8,127 ~~R.R.S., 1943, as amended or subsequent amendments thereto,~~ the party or parties on whose behalf the application is made are termed applicants.

003.02 Respondents: Party or parties ordered by the Board to appear in a proceeding, including complaint proceedings, shall be termed respondents.

003.03 Complainants: Any party filing a complaint under the provisions of ~~Sections~~ sections 81-8,108 to 81-8,127, ~~R.R.S., 1943,~~ or subsequent amendments thereto, shall be termed complainants.

003.04 Intervenors: Any person or party having an interest in any proceedings before the Board and who does not fall within the classification of the foregoing subsections may intervene and shall be termed as intervenors.

004. Pleadings: For the purposes of definition, pleadings shall mean any written application or protest thereto; any petition of intervention; any complaint or reply thereto; or any motion. Sec. 81-8,110.08

005. Complaints: A complaint, where applicable, may be filed by a person, organization, corporation or the Board on its own motion. The complaint shall set forth the names of the party complainant, the name of the parties against whom the complaint is made, a concise description of the problem or alleged violation, and any other facts necessary. Complaints must be in writing and sworn to and signed by the complainant except in the case of complaints by the Board on its own motion. Sec. 81-8,110.08

006. Procedure for Hearing not Associated with Complaints: All hearings which do not pertain directly to a complaint filed pursuant to ~~Sections~~ sections 81-8,123 to 81-8,125 shall be conducted by the Board with the Secretary acting as hearing examiner. The hearing examiner will, among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions and objections, interrogate, if deemed necessary, any witness and close the proceedings. Hearings conducted by the Board will be incorporated with regular meetings and require a quorum present. Sec. 81-8,110.08

007. Procedure for Hearing on Complaint: All hearings which directly pertain to a complaint filed pursuant to ~~Sections~~ sections 81-8,123 to 81-8,125 shall be conducted by a hearing examiner appointed by the Board. The hearing examiner can be any person except a voting member of the Board. The hearing examiner shall have the power to compel the attendance of witnesses and to administer oaths. The hearing examiner will among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions and objections, interrogate, if deemed necessary, any witness and close the proceedings. The hearing examiner shall make in writing complete findings and recommendations to the board. Sec. 81-8,110.08 and 81-8,123 through 81-8,125

008. Opening Statements; Oral Arguments; Briefs. Opening statements and oral argument following the close of presentation of evidence will not be permitted unless specifically requested by the Board or its hearing examiner. Any party wishing to submit a brief of the matter presented at any hearing may do so within the time allotted by the hearing examiner. Sec.81-8,110.08

009. Motions for Continuance. Any party who desires a continuance shall file a motion with the Secretary ~~of the Board~~. Such motion shall be in writing and it shall state the reasons why such continuance is necessary. All motions for continuance shall be filed at least five (5) calendar days prior to the date set for the hearing unless the party requesting the continuance can show good cause for the delay in filing. For good cause shown, the Secretary may grant a continuance. In the event the Secretary shall grant a continuance which was requested less than five (5) calendar days prior to the date of the hearing the party requesting such continuance shall reimburse the Board and all parties involved for actual and demonstrable

costs associated with such continuance. The Board at any time may order a continuance on its own motion. Sec.81-8,110.08

010. Mailing of Orders of The Board: All orders of the Board, following the close of any hearing, shall be transmitted to the parties of record by certified mail. The orders of the Board shall contain findings, determinations and orders in the matter and shall be signed by all members concurring therein. Sec. 81-8,110.08

011. Evidence: The Board is not bound to follow the technical rules of evidence. Evidence shall be admissible which possesses probative value commonly accepted by reasonable men in the conduct of their affairs. Evidence which is cumulative or repetitious may be excluded by the Board or hearing examiner. Provided, however, the Board shall be governed by the statutes governing the administrative agencies of the State of Nebraska, Chapter 84, Article 9 of the Revised Statutes of the State of Nebraska. Sec. 81-8,110.08

012. Exhibits: Sec. 81-8,110.08

012.01 When any exhibit consists of three (3) or more pages, each page shall be consecutively numbered. Any detailed or complex exhibits consisting of more than three (3) pages or with several distinct parts shall be prefaced with an index.

012.02 Each exhibit shall be consecutively marked and numbered.

012.03 Any party desiring to introduce into evidence any part or parts of the official files shall obtain copies thereof in advance of hearing.

012.04 Any party proposing to introduce exhibits into evidence in any proceeding before the Board shall furnish copies of exhibits to the opposing party and all Board Members. Failure to supply the said exhibit will cause it to be excluded from the hearing unless good and sufficient reason be shown by the party offering the same for the failure to furnish said exhibit.

012.05 Relevant portions of books, papers, or documents, shall be plainly designated and distinguished from all irrelevant portions before the relevant material may be offered into evidence.

013. Subpoenas: Subpoenas requiring the attendance of witnesses will be issued by the Examiner, through the Secretary or such person designated in writing by the Secretary, upon written application of any party. Written applications for subpoenas shall be addressed to the Examiner in care of the Secretary and shall be delivered to the Secretary no later than fourteen (14) days prior to the scheduled hearing. Sec. 81-8,110.08

014. Depositions: Depositions used in proceedings before the Board are governed by the following rules: Sec. 81-8,110.08

014.01 All depositions within this state shall be taken at least ten (10) days prior to the date of the hearing, and all depositions outside of this state shall be taken at least fifteen (15) days prior to the hearing date except for good cause shown in writing.

014.02 Depositions shall be taken in accordance with the rules of civil procedure.

014.03 The official taking the deposition shall promptly seal the same along with all exhibits in an envelope, endorsed with the title of the proceeding, and send the same by registered mail to the Secretary of the Board. The deposition shall reach the Board, except for good cause shown, at least three (3) days prior to the date of hearing at which it is to be offered as evidence. The party taking the deposition shall give prompt notice of its filing to all parties of record.

015. Notice: In any hearing before the Board or before a Hearing Examiner duly appointed by the Board the Secretary shall notify the registrant, applicant or respondent, at least twenty (20) days prior to the date set for the hearing. Such notice shall be in writing and contain an exact statement of the charges against him or her and the date and place of hearing. Such notice may be served by delivering it personally to the registrant, applicant or respondent or by sending it by either registered or certified mail addressed to his or her last known business address as shown on the registration or application for registration. Sec. 81-8,124 and 81-8,110.08

016. Records: In any hearing before the Board or before a Hearing Examiner duly appointed by the Board the Secretary shall cause a verbatim record of the testimony to be made. The respondent or applicant shall receive one copy of the record at no charge to him or her.

Additional copies of the record shall be available to the respondent, applicant or any other person at a fee which shall equal the cost of reproduction and handling as determined by the Secretary. Sec. 81-8,110.08

017. Administrative Rules: Whenever the rules or regulations as prescribed by the Board or the statutes governing the Board, do not cover a question or given situation in regard to a procedural question, the Board shall be governed by the Rules governing administrative agencies of the State of Nebraska, Chapter 84, Article 9 of the Revised Statutes of the State of Nebraska. Sec. 81-8,110.08

Chapter - ~~42~~13 - General:

001. All correspondence and filings shall be addressed or delivered to the Nebraska Board of Examiners for Land Surveyors. For the purpose of filing the office of the Board shall be the office of the Nebraska State Surveyor, who is by law the Secretary ~~of the Board~~. Office hours, for the purpose of filing papers, examining public records or transacting any business with the Board or its staff, shall be in accord with the hours of the State Surveyor's Office. When filing or doing any act is required before a certain date which falls on any Saturday, Sunday, or legal holiday the time for said filing or act shall be extended to the next succeeding working day. Sec. 81-8,110.08

002. All records of the Board are public records except files for individual applicants including applications and references, investigative files, litigation files and test papers. Files for individual applicants, investigative files and litigation files are considered confidential and shall not be open to any persons except Members of the Board, the Secretary ~~of the Board~~ and staff of the Secretary ~~or Board~~. Test papers are considered confidential and shall not be open to any persons except Members of the Board, the Secretary ~~of the Board~~ and the staff of the Secretary or Board. The applicant may be given one opportunity to review his or her test papers in the company of the Secretary or the staff of the Secretary. Any review by an applicant shall be scheduled at the discretion of the Secretary and in no case shall occur later than six (6) months after the examination date. All public records of the Board shall be open for inspection at any time during regular office hours. Sec. 81-8,110.08 and 81-8,110.14

003. All meetings of the Board unless otherwise stated in the Rules or Statutes shall be conducted in accordance with Roberts Rules of Order. Sec. 81-8,110.08