

Last Filing Date: 11/14/13
Effective Date: 11/19/13

TITLE 171 - NEBRASKA ADMINISTRATIVE CODE CHAPTERS 1 AND 3



RULES AND REGULATIONS

STATE OF NEBRASKA BOARD OF GEOLOGISTS

NEBRASKA ADMINISTRATIVE CODE

Title 171 - Board of Geologists

ALPHABETICAL TABLE OF CONTENTS

<u>SUBJECT OR TITLE</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>	<u>PAGE NUMBER</u>
Code of Practice	§ 81-3526	Ch. 4	13
Disciplinary Action	§§ 81-3533 to 81-3537, 81-3539 to 81-3541	Ch. 5	17
General Provisions	§§ 81-3501, 81-3503 to 81-3519, 81-3522	Ch. 1	1
Information Practices	§ 84-712.05	Ch. 6	19
Licensure Provisions	§§ 81-3527 to 81-3531, 81-3539, 81-3540	Ch. 3	7
Promulgation, Amendment, or Repeal of Rules		Ch. 7	20
Responsibilities and Duties of the Board	§§ 81-3520 to 81-3523, 84-1407 to 84-1414, and 84-712.05	Ch. 2	5

NUMERICAL TABLE OF CONTENTS

<u>SUBJECT OR TITLE</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>	<u>PAGE NUMBER</u>
General Provisions	§§ 81-3501, 81-3503 to 81-3519, 81-3522	Ch. 1	1
Responsibilities and Duties of the Board	§§ 81-3520 to 81-3523, 84-1407 to 84-1414, and 84-712.05	Ch. 2	5
Licensure Provisions	§§ 81-3527 to 81-3531, 81-3539, 81-3540	Ch. 3	7
Code of Practice	§ 81-3526	Ch. 4	13
Disciplinary Action	§§ 81-3533 to 81-3537, 81-3539 to 81-3541	Ch. 5	17
Information Practices	§ 84-712.05	Ch. 6	19
Promulgation, Amendment, or Repeal of Rules		Ch. 7	20

NEBRASKA ADMINISTRATIVE CODE
Title 171 - Board of Geologists

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®** means the National Association of State Boards of Geology.
- 1.3.2 **Conflict of interest** means a conflict between the private interests and the official or professional responsibilities of a licensee. Such conflict may exist when the conduct of a licensee may have the effect of directly or indirectly conferring a pecuniary benefit at the expense of a client (other than that resulting from services actually performed) on the licensee, a person to whom they are related, or an organization of which they are an officer, director, or member.
- 1.3.3 **Contested case** means a proceeding before the Board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a Board hearing.
- 1.3.4 **Ex parte communication** means an oral or written communication which is not on the record in a contested case with respect to which reasonable notice to all parties was not given. Ex parte communication shall not include:
 - 1.3.4.1 Communications which do not pertain to the merits of a contested case;

NEBRASKA ADMINISTRATIVE CODE

Title 171 - Board of Geologists

- 1.3.4.2 Communications required for the disposition of ex parte matters as authorized by law;
- 1.3.4.3 Communications in a ratemaking or rulemaking proceeding;
- 1.3.4.4 Communications to which all parties have given consent.
- 1.3.5 **FG Examination** means the ASBOG® Fundamentals of Geology examination.
- 1.3.6 **Hearing officer** means the person or persons conducting a hearing, contested case, or other proceeding pursuant to the Administrative Procedure Act, whether designated as the presiding officer, administrative law judge, or some other title designation.
- 1.3.7 **Officers** mean the chairperson, vice-chairperson, and secretary of the Board.
- 1.3.8 **Party** means the person by or against whom a contested case is brought or a person allowed to intervene in a contested case.
- 1.3.9 **Petition** means the initial document filed by or with the Board that sets forth a claim and request for Board action.
- 1.3.10 **PG Examination** means the ASBOG® Practice of Geology examination.
- 1.3.11 **Temporary Permit** means a permit issued by the Board for use on a single project, not lasting in duration for more than one year.
- 1.3.12 **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 schedule and methods of payment shall be set by the Board and are as follows:

Application Fees:

Licensure and Exam Application Fee	\$50
<u>Fundamentals of Geology (FG) Exam Application Fee</u>	<u>\$50</u>
<u>Practice of Geology (PG) Exam Application Fee</u>	<u>\$100</u>
<u>Reciprocal License Application Fee</u>	<u>\$100</u>
Certificate of Authorization for Organization Application Fee	\$100

Licensing/Enrollment Fees:

<u>Geologist-intern Enrollment Fee</u>	<u>Included in FG exam application fee</u>
Licensing Fee	<u>Included in PG exam and license application fee</u> \$240
Temporary Permit Fee	\$175
Geologist-intern Enrollment Fee	Included in exam application fee
<u>Emeritus Fee (Lifetime)</u>	<u>\$25</u>

Renewal Fees:

License Renewal Fee	\$75 <u>\$65</u>
Late Renewal Fee	\$7.50 <u>\$6.50</u> for any month or any part of a month, up to \$75 <u>\$65</u>
Certificate of Authorization Renewal Fee	\$100
Emeritus Fee (Lifetime fee)	\$25

NEBRASKA ADMINISTRATIVE CODE

Title 171 - Board of Geologists

Miscellaneous Fees:

Duplicate Certificate	\$15
Roster Requests	\$25
Exam Seat Reservation Fee	\$35
Exam Registration Fees	Set by ASBOG

- 1.4.2 The licensing fee for each approved professional geologist applies to the calendar year in which it was approved by the Board. The renewal fee applies to the next calendar year.
- 1.4.3 Certificates of licensure as 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 shall be adjusted as needed to generate the revenue needed to administer the Nebraska 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 shall be required to pay fees associated with examinations as established by ASBOG® when such examinations are required.
- 1.4.8 All fees are non-refundable.
- [1.4.9 Public information requests will be processed in accordance to section 84-712. A roster of licensed professional geologists will be provided on the Board's website for public use.](#)

1.5 Application Closure

- 1.5.1 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 and application fee.
- 1.5.2 Approved license applicants who have not submitted the licensing fee by December 31st of the year in which they were approved will have their application closed and must submit a new application and fee to begin the application process again.
- 1.5.3 Once an examinee passes the Practice of Geology (PG) exam and is eligible for licensure, the examinee will have six months from the date the exam was passed to submit the licensing fee. After such date, the examinee will be required to submit a new licensure application and fee.

NEBRASKA ADMINISTRATIVE CODE
Title 171 - Board of Geologists

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 Mailing Lists and Rosters~~

~~A roster of licensed professional geologists will be listed on the Board's website for public use. Any additional request for mailing lists which may include, but is not limited to addresses, may be issued by the Board. The cost of such lists will be actual costs for researching and/or copying. Lists requested by government agencies, political subdivisions in Nebraska, or geological professional societies will be issued at no cost to the requesting organization.~~

~~1.8~~1.7 Change of Contact Information and/or Name

It is the responsibility of the licensee, examinee, or organization to notify the Board of any changes in their contact information. If a licensee changes his or her name, the person shall 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.

~~1.9~~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.

NEBRASKA ADMINISTRATIVE CODE

Title 171 - Board of Geologists

CHAPTER 3 - LICENSURE PROVISIONS

3.1 Required Documents

- 3.1.1 Applicants for licensure as a professional geologist shall submit a completed application form, accompanied by the application fee established by the Board.
- 3.1.2 Applicants for licensure as a professional geologist shall provide the names and addresses of not less than four references who are not relatives or subordinate employees of the applicant and who can attest to the applicant's professional character, reputation and qualifications. In the case of a geologist-intern, only two character references are required.
 - 3.1.2.1 Two of the references shall be professional geologists or qualified geologists having personal knowledge of the applicant's geologic work experience.
 - 3.1.2.2 No member(s) of the Board will be accepted as references. Individuals providing references must return the completed forms directly to the Board.

3.2 Education

- 3.2.1 The applicant shall provide official verification of his or her college record(s) documenting completion of the following education requirements:
 - 3.2.1.1 Successful completion of at least thirty semester or forty-five quarter hours of course work in geology and conferred a baccalaureate or advanced degree in geology or a geologic specialty from a program recognized by the Board.
 - 3.2.1.2 Course work shall include five of the following courses or their equivalent: 1) field geology, 2) physical geology, 3) mineralogy, 4) petrology/petrography, 5) structural geology, 6) stratigraphy/sedimentology/soils, or 7) hydrogeology.

3.3 Experience

- 3.3.1 The application shall document a minimum of five years progressive experience obtained after completion of the education requirements. The applicant must summarize all geological and related professional work experience and provide the names and addresses of supervisors or, in the case of consulting work, clients.
 - 3.3.1.1 If an applicant cannot provide the name and address of at least one supervisor or client, an applicant shall provide a written and signed explanation and the name and address of one additional professional reference. This additional professional

NEBRASKA ADMINISTRATIVE CODE
Title 171 - Board of Geologists

reference shall not be a relative, member of the Board, or subordinate employee of the applicant.

- 3.3.2 Criteria for determining geologic work experience for credit toward the required professional practice in geologic work shall include, but not be limited to:
 - 3.3.2.1 Each full-time month of geologic experience that was carried out for a client, under the direct supervision of a professional geologist or qualified geologist, or under another professional who has similar experience, education, and professional character in a related field, shall count as one month of professional practice of geologic work.
 - 3.3.2.2 Part-time work may be converted to its full-time equivalent.
 - 3.3.2.3 Successful completion of graduate study leading to a Master's degree in geology may be used for credit for one year's experience. If a PhD in geology is completed, two years total experience may be credited. If the PhD is obtained without the Master degree, the credit for experience will be two years.
 - 3.3.2.4 Experience may either be gained under the education or the work experience category. The applicant cannot claim the experience for completion of a graduate degree and work experience while working full time during the same time span.
- 3.3.3 The Board may publish guidelines with respect to documenting an applicant's geological experience.
- 3.3.4 The required experience must have been attained at the time of the application and cannot be anticipated.

3.4 Examinations

- 3.4.1 The examinations used by the Board to determine eligibility for licensure shall be the current ASBOG Fundamentals of Geology (FG) and the Practice of Geology (PG).
- 3.4.2 The Board shall require an applicant for licensure as a professional geologist to have passed the ASBOG® Fundamentals of Geology and Practice of Geology examinations or their equivalent/s, unless the applicant is exempt from examination.
- 3.4.3 The Board will follow ASBOG®'s schedule for examinations at a place determined by the Board.
- 3.4.4 Applications to take an examination will go to the Board for review and final determination. If the Board determines that an applicant meets the requirements for taking an examination, the Board will notify the applicant of such and forward the eligibility information to ASBOG.
 - 3.4.4.1 Once the Board determines an applicant is eligible to take either the FG examination or the PG examination, the applicant remains eligible to retake that same examination for five years. The five years shall commence on the date of the first scheduled exam after the applicant has been determined eligible.

NEBRASKA ADMINISTRATIVE CODE

Title 171 - Board of Geologists

- 3.4.5 The Board will accept the examination results as determined by ASBOG and will report the results to the applicant.
- 3.4.6 Any alleged improper behavior on the part of the applicant shall be investigated by the Board, after which the Board will take appropriate action.
- 3.4.7 An applicant must have passed the examination(s) in accordance with the ASBOG pass/fail standards current at the time the applicant took the examination.
- 3.4.8 After the third and subsequent failure of either geology examination, the candidate shall present to the Board evidence of having successfully completed two of the seven core geology courses as listed in Rule 3.2. It is recommended these courses be in the area(s) of examination deficiency. A new examination application, along with the current application fee must be submitted with a request to retake the examination.
- 3.4.9 The FG examination may be taken upon substantial completion of the education requirements. Substantial completion of education requirements means completion of thirty semester or forty-five quarter hours in geology regardless of whether or not a geology or geological specialty degree has been earned.
- 3.4.10 The PG examination may be taken only after the applicant has met the education and experience requirements as set forth in Rules 3.2 and 3.3.
- 3.4.11 All examination reservation fees are non-refundable and non-transferrable to a future examination.
- 3.4.12 An applicant may take both the FG and PG examinations during the same exam administration, if he or she meets the requirements for taking the PG examination as set forth in Rule 3.4.10.

3.5 Enrollment as a Geologist-Intern

- 3.5.1 A candidate will be enrolled as a Geologist-Intern when the following has been completed:
 - 3.5.1.1 Satisfactory completion of course work, grades, and degrees that indicates to the Board the applicant has met the education requirements as set forth in Rule 3.2. Official or certified transcripts or other documentation of satisfactory completion must be provided to the Board directly from the granting institution.
 - 3.5.1.2 Successful passage of the FG examination.
 - 3.5.1.3 The Board has determined the candidate has met the above requirements.
 - 3.5.1.4 If the Board finds an applicant does not meet the requirements for enrollment as set forth herein, the application may be denied or additional information required. If such information, or a request for a time extension and explanation signed by the applicant, is not received within six months of the date of the Board request, the application will be cancelled, and a new application along with the application fee will be required. A request for a time extension may be rejected by the Board.

NEBRASKA ADMINISTRATIVE CODE

Title 171 - Board of Geologists

3.6 Licensure as a Professional Geologist

- 3.6.1 When the Board has determined that an applicant for licensure has satisfied the licensure standards set forth herein, the Board shall issue a certificate of licensure with the licensed applicant's name and license number.
- 3.6.2 An applicant who holds a valid license to practice geology in another state, jurisdiction, territory, or country, as recognized by the Board, may be granted licensure in Nebraska, if the applicant:
 - 3.6.2.1 Has a current professional geologist license in good standing in another state and provides verification of licensure in a manner deemed acceptable by the Board.
 - 3.6.2.1.2 Letters of reference may not be required if the license is in good standing.
 - 3.6.2.3 Has passed the ASBOG® FG and PG examinations, or their equivalent.
 - 3.6.2.3.1 The Board may waive the requirement of passing the ASBOG® examinations if the applicant has continuously held licensure as a geologist in good standing since December 31, 1991. Such applicants may be required to submit additional information with their application, including transcripts or letters of reference.
 - 3.6.2.4 Meets the education requirement as described in Rule 3.2; and
 - 3.6.2.5 Satisfies the requirement for experience as described in Rule 3.3; or
 - 3.6.2.6 Geologists licensed by a licensing authority in another state, jurisdiction, territory, or country, recognized by the Board with 15 years or more of licensed work experience acceptable to the Board, may be granted licensure in Nebraska if he or she submits satisfactory evidence of such experience to the Board and provides four professional references.
 - 3.6.2.6.1 The Board may exempt applicants with 15 years or more of acceptable licensed work experience from the examination and education requirements as set forth in Rules 3.2 and 3.4.
- 3.6.3 All license applications will go to the Board for review and final determination.

3.7 Temporary Permit

- 3.7.1 A geologist who holds a current and valid certification or license issued by a licensing authority recognized by the Board may apply for a temporary permit for the purpose of providing geological services for no more than one project, not to exceed one year, if the applicant:
 - 3.7.1.1 Files an application with the required fee; and
 - 3.7.1.2 Submits satisfactory evidence of such certification or license to the Board.
- 3.7.2 Verification of good standing must be provided by the state of current licensure.

NEBRASKA ADMINISTRATIVE CODE
Title 171 - Board of Geologists

- 3.7.3 The Board or its designee is authorized to review and evaluate the applications of all temporary permit applicants to determine whether they meet the criteria set forth herein and issue the permit if so deemed.
- 3.7.4 The permit will consist of labels containing the pertinent information, which may be applied to documents or copied onto clear media for application to sealed transparencies.
- 3.7.5 The holder of a temporary permit shall use his or her seal from the licensing authority of verified licensure when sealing documents pertaining to the Nebraska project and shall accompany the seal with the information label issued by the Board.
- 3.7.6 Temporary permits expire one year after the date of issuance or on the date a reciprocal license is issued, whichever occurs first.
- 3.7.7 A listing of all professional geologists issued temporary permits will be placed on the agenda of the next meeting of the Board for formal approval.

3.8 Organizational Practice

- 3.8.1 Organizations practicing or offering to practice geology in Nebraska shall apply to the Board for a certificate of authorization. The certificate of authorization shall be used to file any applications with the Nebraska Secretary of State to fulfill the appropriate statutes or requirements for practicing in Nebraska as a corporation, partnership, limited liability corporation, professional corporation or other such organizational designations appropriate under Nebraska law. Sole proprietorships do not require a certificate.
- 3.8.2 The Board will review the organization's application and issue a certificate of authorization if the minimum requirements are satisfied to practice or offer to practice the profession of geology in the State of Nebraska.
 - 3.8.2.1 The minimum requirement for an organization to practice or offer to practice geology in the State of Nebraska is to have one professional geologist, licensed to practice in the State of Nebraska for the duration of the certificate of authorization.
 - 3.8.2.2 The professional geologist must be a full-time employee of the organization and may or may not have ownership interest in the organization.
 - 3.8.2.3 The signature of a professional geologist licensed in the State of Nebraska must appear on the certificate of authorization application.
 - 3.8.2.4 Should the licensed professional geologist who signed the application leave the organization, become deceased, or lose signatory authority, the organization shall notify the Board within 30 days and file an amendment to its application identifying the new licensed individual with signatory authority.
 - 3.8.2.5 The organization must pay the required application fee.
- 3.8.3 The certificate of authorization is valid for two years and expires on the expiration date.

NEBRASKA ADMINISTRATIVE CODE
Title 171 - Board of Geologists

- 3.8.4 The Board's designee is authorized to review and evaluate the applications for certificates of authorization to determine they meet the criteria set forth herein and issue the certificate if so deemed.
- 3.8.5 A listing of all certificates of authorization issued will be placed on the agenda of the next meeting of the Board for formal approval by the Board.

3.9 Licensee Seal

- 3.9.1 Upon notification of licensure from the Board, the ~~applicant~~ licensee shall ~~obtain and purchase~~ acquire a seal which bears the licensee's name, his or her license number, ~~the words~~ "State of Nebraska," and "Licensed Professional Geologist."
- 3.9.2 The purpose of requiring each professional geologist to acquire a seal is to assist in identifying the geologist responsible for work performed under the requirements of Neb. Rev. §§ 81-3501 to 81-3541.
- 3.9.3 The seal used by a licensee, whether an embossing, computer generated, or other type shall be legible. In the absence of legibility, the seal is invalid.
- 3.9.4 An imprint of the licensee's valid seal shall appear on 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 prepared by or under the responsible charge or direct supervision of the licensee whenever these documents are presented to a client or any public or governmental agency. An imprint of the licensee's seal shall be superimposed over his or her signature and the date on which it was signed.
- 3.9.5 Any work sealed and signed by a licensee must have been prepared by the licensee or under the direct supervision or responsible charge of the licensee. After the fact ratification by the sealing of documents, when the underlying work was not performed by or under the responsible charge and supervision of the licensee, is prohibited.
- 3.9.6 A licensee whose license is expired shall not use his or her seal on any work until the license is reinstated.
- 3.9.7 The licensee shall take reasonable steps to ensure the security of their physical and computer-generated seals at all times.