

Nebraska Board of Engineers and Architects
Public Rulemaking Hearing Minutes – August 5, 2022, 8:30 a.m.
5th Floor Large Conference Room, 215 Centennial Mall South, Lincoln, NE

The Board of Engineers and Architects held this hearing to consider revisions and receive public comment on proposed changes to Title 110, Nebraska Administrative Code, Rules and Regulations, Chapters 2, 6, 9, and 10.

Public Rulemaking Hearing Convened

The public hearing was held at 215 Centennial Mall South, 5th Floor Conference Room, Lincoln Nebraska. Chair Thiele opened the hearing at 8:30 a.m. and noted the location of the Open Meetings Act. Notice of the hearing was published in the Lincoln Journal Star in compliance with the Open Meetings Act.

Members Present: Dan Thiele, Chair; Brian Kelly, Vice-Chair; Jan Bostelman, Bruce Dvorak, Brett Foley; Lenora Isom, Alan Wedige; **Absent:** Jason Suelter

Staff Present: Jon Wilbeck, Executive Director (ED); Amy Habe, Compliance Officer (CO); Jean Lais, Administrative Programs Officer (APO); Laura Buis, Public Information Officer (PIO)

Public Comment

No members of the public present

Written Comments Received

The following written comments were submitted prior to the hearing:

- UNI College of Engineering, Lance Perez-Dean – no opposition

Chair Thiele noted a decision to adopt or reject the proposed rules and regulations would take place at the regular Board meeting to be held immediately after the public rulemaking hearing.

ADJOURNMENT

Chair Thiele close the hearing at 8:32 a.m.



Jason Suelter, Secretary

CHAPTER 2. INITIAL LICENSURE OF PROFESSIONAL ENGINEERS

2.1 Requirements

Initial licensure as a professional engineer requires that applicants have:

- (1) Satisfied the education requirements set forth in Rule 2.2;
- (2) Satisfied the experience requirement set forth in Rule 2.3;
- (3) Satisfied the examination requirement set forth in Rule 2.4; and
- (4) Complied with the application process set forth in Rule 2.5.

2.2 Education Requirements

- 2.2.1 Candidates for initial licensure are required to either hold a degree from an EAC/ABET-accredited engineering program, a degree from a CEAB-accredited engineering program, or meet the NCEES Education Standard.
- 2.2.2 A program is considered to be EAC/ABET- or CEAB-accredited under these rules in accordance with the accrediting entity's policies and procedures.
- 2.2.3 A degree from a program accredited by ETAC/ABET does not meet the education requirement.
- 2.2.4 Those holding degrees from programs not EAC/ABET- or CEAB-accredited must establish that their education meets the NCEES Education Standard by evaluation through the NCEES Credentials Evaluation program.
 - 2.2.4.1 Deficiencies defined by the evaluation service may be corrected by taking coursework related to the deficiency in a post-secondary institution offering acceptable accredited engineering programs or in programs otherwise acceptable to the Board.
 - 2.2.4.2 Coursework from post-secondary education institutions that are not accredited will be acceptable if the coursework is approved by a post-secondary institution offering acceptable accredited engineering programs to be "transferable." Verification from the institution may be required for substantiation.
 - 2.2.4.3 Passing scores will be accepted in college level exams given by approved third parties including College Board Exams (CLEP) in subjects related to the deficiency or as otherwise acceptable to the Board.
 - 2.2.4.4 With Board approval, up to ~~nine~~ six semester credit hours of deficiency in general education may be removed for applicants who have obtained a college degree from an institution whose primary language of instruction is not English or who can demonstrate fluency in multiple languages or dialects.

2.2.4.5 Once the deficiencies are removed, the Board will consider the education as satisfying the Board's education requirement.

2.2.4.6 The Board may defer action on deficient applications until these education requirements have been met.

2.3 Experience Requirements

2.3.1 Candidates for initial licensure shall have a minimum of four years of work experience acceptable to the Board.

2.3.1.1 For purposes of this rule, "work" means professional services comprising the practice of engineering.

2.3.2 Work experience may start immediately following graduation from a four-year or equivalent engineering program.

2.3.3 Successful completion of graduate study leading to an advanced degree in engineering may satisfy part of the experience requirement. A candidate may not satisfy the experience requirement until at least forty-eight (48) months have elapsed after completion of their first engineering degree, irrespective of the combination of work experience and education credit that may be available for an advanced degree. Associate degrees are not considered when determining a candidate's first degree.

2.3.3.1 Candidates who complete three years of acceptable work experience after confirmation of a degree from an EAC/ABET- or CEAB-accredited bachelor program and holds a master's degree in engineering satisfy the experience requirement.

2.3.3.2 Candidates who complete three years of acceptable work experience after confirmation of a degree from an EAC/ABET- or CEAB-accredited masters program satisfy the experience requirement.

2.3.4.3 Candidates who complete two years of acceptable work experience, has a degree from an EAC/ABET- or CEAB-accredited bachelor or master's program, and has an earned doctoral degree in engineering satisfy the experience requirement.

2.3.4 Candidates who do not have a degree from an EAC/ABET- or CEAB-accredited bachelor or master's program, but who have met the NCEES Education Standard, may not satisfy the experience requirement until at least forty-eight (48) months after completion of their first degree. Associate degrees are not considered when determining a candidate's first degree.

2.3.5 Experience should be gained under the supervision of a licensed professional engineer or, if not, an explanation should be made showing why the experience should be considered acceptable to the Board.

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- 2.3.6 The Board will consider engineering experience performed outside the United States if the Board determines that such experience was gained under a licensed professional engineer from an NCEES jurisdiction, or upon reasonable investigation by an engineer Board member, that such experience was performed under circumstances comparable to engineering standards in the United States. All materials necessary to make such determination must be provided by and at the expense of the applicant.
- 2.3.7 Experience must indicate that, over the course of time, the applicant's work has been of increasing quality and has required greater responsibility.
- 2.3.8 Only work of an engineering nature which follows graduation from a professional engineering program may be used to satisfy the experience requirement.
- 2.3.9 Experience must not be obtained in violation of the E&A Act.
- 2.3.10 Experience gained in the armed services may be used to satisfy the experience requirement if it was of a character equivalent to that which would have been gained in the civilian sector doing similar work. Generally, such experience will be creditable only if the applicant served in an engineering or engineering-related group.
- 2.3.11 Sales experience may be used to satisfy the experience requirement only if the applicant can demonstrate that engineering principles were required and used in gaining the experience.
- 2.3.12 Engineering teaching experience may be used to satisfy the experience requirement, subject to the Board's approval, if the courses were at an advanced level at a post-secondary education institution offering an engineering curriculum of four years or more. "Advanced level" means select courses at the junior (300) level as approved by the Board, and all courses senior (400) level and above.
- 2.3.13 Experience gained in engineering research and design projects by members of an engineering faculty may be used to satisfy the experience requirement if acceptable to the Board.
- 2.3.14 Construction experience may be used to satisfy the experience requirement only if the applicant can demonstrate that the work required the application of engineering principles.
- 2.3.15 Experience may not be anticipated. The experience must have been received at the time of the application for licensure.

2.4 Examination Requirements

- 2.4.1 Candidates for initial licensure must pass the NCEES FE Examination, the NCEES PE Examination, and the Nebraska E&A Act Examination.
 - 2.4.1.1 The Board will follow NCEES policies and schedules for taking and retaking FE and PE Examinations.

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- 2.4.1.2 The Board will determine applicant eligibility for the PE Examination, and forward eligibility information to NCEES.
 - 2.4.1.2.1 Once an applicant has been approved to take the PE Examination, they remain qualified to retake that same examination four times.
- 2.4.1.3 The Board will accept the examination result as determined by NCEES.
- 2.4.1.4 If there is any reported examination irregularity on the part of an applicant, the Board will investigate the allegation and take appropriate action.
- 2.4.1.5 Passage of the FE or PE Examinations will be determined by the NCEES pass/fail standards in place at the time the examination was taken.
- 2.4.1.6 For security reasons, items in the examination will not be available for review by the examinee.
- 2.4.1.7 After a fourth or subsequent failure of any PE Examination or unacceptable result of any Structural PE Examination component, the candidate must present the Board with evidence of having acquired additional relevant formal instruction before being reexamined. If approved by the Board, such candidates will be eligible for an additional PE Examination or Structural PE Examination component attempt. Relevant formal instruction means coursework consisting of at least two semester credit hours at the undergraduate or graduate level in the knowledge areas identified as failed in the NCEES diagnostic report. The coursework must be acceptable at, or transferrable to a post-secondary educational institution that offers EAC/ABET-accredited engineering programs. Online coursework is acceptable. Examination preparatory classes, continuing education offerings, class auditing, and individual study do not satisfy the formal learning requirement.
 - 2.4.1.7.1 Receiving an unacceptable result on either component of the Structural PE Examination will be treated as a retake for purposes of Rule 2.4.1.7.
- 2.4.1.8 An applicant's failure to attend an examination for which he or she has been scheduled will forfeit the application fee, except as otherwise determined by NCEES policies.
 - 2.4.1.8.1 Failure of an applicant to attend an examination for which he or she has been scheduled to attend is not considered a failure of the examination or a retake under Rule 2.4.1.7.
- 2.4.1.9 Proctoring of the FE or PE Examinations will be done in accordance with NCEES rules and policies.
- 2.4.2 All applicants for the PE Examination must have passed the FE Examination.
- 2.4.3 The PE Examination

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2.4.3.1 The PE Examinations are given in disciplines offered by NCEES, except that the Board reserves the right not to examine in certain disciplines offered by NCEES or to examine in specialized disciplines or areas of engineering not offered by NCEES.

~~2.4.3.2 Applicants will be permitted to sit for the PE Examination in a discipline different from that of the applicant's education upon the Board's acceptance of evidence of four years of work experience in the discipline of the requested examination.~~

2.4.3.32 The Structural PE Examination consists of two components: the Vertical Forces (gravity/other) and Incidental Lateral component, and the Lateral Forces (wind/earthquake) component.

2.4.3.32.1 A candidate may sit for each component in separate exam administrations but must receive acceptable results on both components within a five-year period.

2.4.3.32.2 Receiving acceptable results on only one component is not sufficient for licensure in structural engineering or any other engineering discipline.

2.4.3.32.3 Applicants who have passed both components of the Structural PE Examination, or its equivalent as defined by NCEES, are eligible for licensure as a Professional Structural Engineer.

2.4.4 To be eligible to sit for the PE Examination, an applicant must:

2.4.4.1 Submit an application on or before the filing deadline established by the Board;

2.4.4.1.1 Applicants must submit a separate application for each discipline in which examination is requested.

2.4.4.2 Provide satisfactory evidence of meeting the education requirement as set forth in these rules;

2.4.4.3 Provide verification of passing the FE Examination. Such verification must be received directly from the jurisdiction in which the examination was taken or from NCEES.

2.4.4.4 Applications for the PE Examination may be reviewed by the Board.

2.4.5 The Nebraska E&A Act Examination

2.4.5.1 Before license issuance, an applicant must pass an examination, prepared and administered by the Board, to test an applicant's familiarity with the Nebraska E&A Act, E&A Rules and the ethics of practicing engineering.

- 2.4.5.2 After a second or subsequent failure of the Nebraska E&A Act Examination, the candidate may be required to acquire additional instruction before being reexamined. Such candidates are eligible for reexamination every thirty days.

2.5 Application for Licensure

- 2.5.1 To be eligible for licensure as a professional engineer, an applicant must:
 - 2.5.1.1 Submit a completed application to the Board, accompanied by the filing fee established by the Board;
 - 2.5.1.2 Provide satisfactory evidence of meeting the licensure standards as set forth in the Act and these rules;
 - 2.5.1.3 Submit five references indicating good reputation and ethical character, three of which are from professional engineers. If an applicant cannot provide three references from professional engineers, five references must still be submitted together with an explanation as to why the professional references are unavailable.
- 2.5.2 Applications for professional engineering licensure may be reviewed by the Board.

2.6 Certificates

- 2.6.1 When the Board has determined that an applicant for licensure has satisfied the licensure requirements set forth herein, a certificate of licensure will be issued containing the licensed applicant's full name, license number, and designated discipline of practice.
- 2.6.2 Discipline of practice is the discipline of the PE Examination upon which the license is issued.
 - 2.6.2.1 Those licensed in multiple disciplines will be issued separate certificates for each discipline.
- 2.6.3 Professional Engineers licensed on the basis of architectural engineering education, experience, and examination will be designated Professional Architectural Engineers. Professional Architectural Engineers are considered competent to design engineering systems commonly associated with buildings. They may not practice or offer to practice architecture.
- 2.6.4 Professional Engineers who are licensed on the basis of structural engineering, experience and examination will be designated Professional Structural Engineers and may use the designation S.E. with their name.

2.7 Reimbursement of Educational Debt

- 2.7.1 With respect to Neb. Rev. Stat. §81-3432.01, each eligible individual who passes the FE Examination on their first attempt no later than nine months after graduation may be reimbursed \$50.00 by the Board of Engineers and Architects. Individuals who retake the exam because of a no-show or failure are not eligible for reimbursement. In order to receive reimbursement, proof of graduation must be officially issued by the degree-granting institution and received by the Board within a year of graduation. Payment will be a warrant issued by the State of Nebraska.

CHAPTER 6. THE LICENSEE SEAL

6.1 Use of the Seal

- 6.1.1 Each person licensed as an architect or professional engineer must have a seal that bears the licensee's name, their license number, the words "State of Nebraska," and whether the individual is licensed to practice as a professional engineer, with discipline specified, or an architect.
- 6.1.2 The purpose of the seal is to assist in identification of the design professional responsible for work performed under the requirements of the E&A Act.
- 6.1.3 The seal used by an architect or professional engineer shall be legible, whether an embossing, computer generated, or other type of seal. In the absence of legibility, the seal is invalid.
- 6.1.4 The responsible architect or professional engineer 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 each sheet of original drawings.
- 6.1.5 All specifications, reports, studies, and other documents prepared as architectural or professional engineering services shall be sealed on the title page and/or the first page, as well as the last page, of the document by the individual architect or professional engineer responsible for the work. Two or more architects or professional engineers may affix their signatures and seals to a sheet provided it is designated by a note under the seal the specific subject matter for which each is responsible.
- 6.1.6 No seal shall be valid unless signed across the face of the seal with the architect's or professional engineer's name and the date on which the material was signed.
- 6.1.7 Documents clearly marked as "Draft" prepared for preliminary submission and review do not require the professional's seal, signature, and date, including documents prepared for a client or governmental agency, unless otherwise required by that entity.
- 6.1.8 Architects and professional engineers 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.
- 6.1.9 Record and as-built drawings.
 - 6.1.9.1 Architects and professional engineers are not obligated to seal record or as-built drawings.
 - 6.1.9.2 If an architect or professional engineer elects to seal record or as-built drawings, the seal may be applied only to the work over which the architect or professional engineer had direct supervision or which the architect or professional engineer personally observed during construction.
 - 6.1.9.3 Architects and professional engineers shall not seal drawings that represent changes not actually observed during construction.

- 6.1.9.4 Architects and professional engineers may include notations on record or as-built drawings that indicate the work that they can actually confirm based on information obtained through observation, interview, samples, and other reliable sources, such as the following:

These record drawings are a compilation of a copy of the sealed [engineering/architectural] drawings for this project, as modified by addenda, change orders, and information furnished by the contractor or others on the project. The information shown on the record drawings that was provided by the contractor or others not associated with the design [engineer/architect] cannot be verified for accuracy or completeness. The original sealed drawings are on file at the offices of [...].

- 6.1.9.5 Alternatively, architects and professional engineers may seal and sign a cover letter stating what they have determined to be as-built through their own research and attach the letter to the drawings or plans.
- 6.1.9.6 Documentation of the work that was actually constructed is not the practice of architecture or engineering under the E&A Act.

6.2 Projects Based on Previously Sealed Project Documents

- 6.2.1 Design documents prepared for projects that are designed by architects and professional engineers licensed in jurisdictions other than Nebraska may be used for the construction of the project in Nebraska if reviewed, revised as appropriate, and sealed by an architect or professional engineer licensed in Nebraska under the following circumstances:
- 6.2.1.1 The original architects and/or professional engineers provide written consent for the adaptation of the documents or, if such permission cannot reasonably be obtained, the architect or professional engineer seeking to adapt the documents provides a written explanation of the circumstances that prevent such permission from being obtained;
- 6.2.1.2 The documents include appropriate revisions relating to site and local climate considerations;
- 6.2.1.3 The documents are reviewed for zoning and code compliance, and revised as necessary;
- 6.2.1.4 The architect or professional engineer in Nebraska accepts full responsibility of the revised documents; and
- 6.2.1.5 The seal of a coordinating professional is applied, if required.

6.3 The Coordinating Professional

- 6.3.1 The Coordinating Professional is a licensed professional engineer or architect recognized as such by the project owner.
- 6.3.2 The Coordinating Professional's role is:

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- 6.3.2.1 To coordinate communication between the design professionals related to technical documents on the project;
- 6.3.2.2 To act as project liaison with the governing building official; and
- 6.3.2.3 To verify that all design disciplines involved in a project are working in coordination with one another, and that any changes made to the design are approved by the corresponding discipline, so that life, health, safety, and welfare are not compromised.
- 6.3.3 The Coordinating Professional's seal does not indicate responsible charge or direct supervision of the work.
- 6.3.4 The Coordinating Professional must use the following language in conjunction with their individual seal for identification as the Coordinating Professional: "I, (name of licensee), am the Coordinating Professional on the (name of project) project."

6.4 Direct Supervision of Work

- 6.4.1 In order to exercise full professional knowledge of and control over work, a licensee in direct supervision of architectural or engineering work must:
 - 6.4.1.1 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;
 - 6.4.1.2 Be personally aware of the project's scope, needs, parameters, limitations, and special requirements;
 - 6.4.1.3 Be capable of answering questions relevant to the architectural or engineering decisions made as part of the services provided, in sufficient detail to demonstrate reasonable knowledge of and proficiency in the work; and
 - 6.4.1.4 Be reasonably satisfied with the product of the services rendered and accept full responsibility for the work.
- 6.4.2 The Board has final authority regarding the determination of whether technical documents were actually prepared under the direct supervision of a licensee.

6.5 Technical Submissions

- 6.5.1 Technical submissions that constitute the practice of architecture or engineering shall include both (1) the name, and (2) either the address or location, of the project on each drawing and the cover page and/or first page of specifications, reports, studies, and other documents;
- 6.5.2 If the work shown on technical submissions is not being performed through an organization as provided in Neb. Rev. Stat. § 81-3436, the licensee's (1) name and (2) contact information shall be included on technical submissions.

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- 6.5.3 If the work shown on technical submissions is being performed through an organization or organizations as provided in Neb. Rev. Stat. § 81-3436, (1) the organization(s) legal name or DBA, (2) contact information, and (3) the organization(s) certificate of authorization number(s) shall be included on technical submissions.
- 6.5.4 If sealed standards such as drawings, details, and specifications prepared by a jurisdiction are used in a project, the name of the jurisdiction which prepared the standards shall be noted on the technical submissions.

CHAPTER 9. CONTINUING EDUCATION

9.1 Introduction

- 9.1.1 Every architect and professional engineer must meet the Continuing Education requirements of these regulations as a condition for license renewal or reinstatement.
- 9.1.2 Certified satisfaction of mandatory continuing education requirements in any jurisdiction recognized by the Board, for the exact renewal period in question in Nebraska, will satisfy the Nebraska requirement.

9.2 Requirements

- 9.2.1 Architects must complete 24 actual hours of architectural-related learning every biennial period to satisfy the continuing education requirement. Until January 1, 2022, at least 16 actual hours must address the safeguarding of life, health, and property.
- 9.2.2 Professional engineers must complete 30 actual hours of engineering-related learning every biennial period to satisfy the continuing education requirement.
- 9.2.3 Unless restricted by Rule 9.3 or its subsections, acceptable continuing education activities include, but are not limited to, the following:
 - 9.2.3.1 Successful completion of college courses from an educational institution that offers EAC/ABET- or NAAB-accredited programs, or courses transferrable to and accepted for credit by an educational institution that offers EAC/ABET- or NAAB-accredited programs;
 - 9.2.3.2 Successful completion of short courses, tutorials, web-based activities, and distance-education courses offered for self-study, independent study, or group study;
 - 9.2.3.3 Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations;
 - 9.2.3.4 Teaching or instructing in 9.2.3.1 through 9.2.3.3 above;
 - 9.2.3.5 Authoring published papers, articles, books;
 - 9.2.3.6 Participating in the development of items for NCEES or NCARB examinations;
 - 9.2.3.7 Active participation in professional or technical societies in which a licensee serves as an officer or actively participates in a committee of the society;
 - 9.2.3.8 Authoring a patent related to architecture or engineering; and
 - 9.2.3.9 Active participation in educational outreach activities pertaining to professional licensure or the architecture/engineering professions that involve K–12 or higher education students.

9.3 Restrictions

- 9.3.1 Web-based offerings other than those provided by (1) International Association for Continuing Educational Training (IACET) approved providers, (2) institutions of higher education that have an accredited program in architecture or engineering, (3) professional engineering or architectural societies, (4) technical societies and associations recognized at a national level, or (5) governmental agencies may constitute no more than one-fourth of the biennial education requirement, that is six hours for architects or seven and one-half hours for professional engineers.
 - 9.3.1.1 Web-based offerings including webinars, video conferences, and online meetings led by an instructor that enables both the instructor and attendees to give, receive, and discuss information *in real time* is not restricted under Rule 9.3.1.
- 9.3.2 At least one hour of the biennial continuing education requirements must be directly related to ethical issues of a licensee's professional practice.
- 9.3.3 An individual who is both an architect and professional engineer may use ethics related hours and any other hours to satisfy the continuing education requirements of both licenses if the subject is both architecture- and engineering-related learning.
- 9.3.4 Effective January 1, 2022, a learning activity that is 1) non-technical in nature, and 2) addresses a topic that is not part of that profession's body of knowledge as developed by the applicable national professional engineering society or is not categorized as a Health Safety and Welfare topic by NCARB, is not an acceptable continuing education activity.
- 9.3.5 Self-guided activities planned and performed under the licensee's own direction and guidance may constitute no more than one-fourth of the biennial education requirement, which is six hours for architects or seven and one-half hours for professional engineers.

9.4 Units and Carry-over

- 9.4.1 The Board has final authority with respect to approval of courses, credit, unit value for courses, and other methods of earning continuing education credit. No pre-approval of offerings will be issued.
- 9.4.2 The conversion of other units of credit to actual hours is as follows:
 - 9.4.2.1 One actual hour is equivalent to at least 50 minutes of instruction.
 - 9.4.2.2 One semester credit hour of formal education is equivalent to 45 actual hours.
 - 9.4.2.3 One quarter credit hour of formal education is equivalent to 30 actual hours.

- 9.4.2.4 With respect to Rule 9.2.3.4, credit for teaching or presenting an activity may be credited double the number of actual hours. Credit is valid only for the first offering or presentation. Full-time faculty may not claim credit associated with their regular teaching duties.
- 9.4.2.5 Each published peer-reviewed paper or book in the licensee's area of professional practice is equivalent to 10 actual hours.
- 9.4.2.6 Each published paper or article which does not meet the requirements of Rule 9.4.2.5 but is in the licensee's area of professional practice is equivalent to five actual hours.
- 9.4.2.7 Active participation in a professional and technical society is equivalent to two actual hours. Actual hours are not earned until the end of each year of service is completed.
- 9.4.2.8 A patent is equivalent to 10 actual hours.
- 9.4.3 Architects and professional engineers may carry up to one-half of the required continuing education credits from the previous biennial period. Excess credits can be carried over only into the biennial period immediately following the period in which the credit was earned.
- 9.4.4 Ethics hours can be carried over.

9.5 Recordkeeping

- 9.5.1 Every architect and professional engineer is responsible for maintaining records necessary to support credits claimed for continuing education. Records required include, but are not limited to:
 - 9.5.1.1 A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and unit credits earned;
 - 9.5.1.2 Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or
 - 9.5.1.3 Records relating to continuing education that are maintained by NCEES, NCARB, or other organizations may be accepted by the Board as evidence of completion of the continuing education requirements.

9.6 Exemptions and Waiver

- 9.6.1 Architects and professional engineers may be exempt from the continuing education requirements for one of the following reasons:

- 9.6.1.1 Architects and professional engineers licensed by examination or comity are exempt for their initial renewal period. Architects who complete more than 24 acceptable hours and professional engineers who complete more than 30 acceptable hours in their initial renewal period are eligible to carry over excess continuing education credits, subject to the limitations described in this chapter.
- 9.6.1.2 Contingent upon approval from the Board or Executive Director:
 - 9.6.1.2.1 Architects and professional engineers serving on active duty in the armed forces of the United States or any state for a period of time exceeding 120 days in each calendar year of their renewal period are exempt from obtaining the continuing education hours required during that renewal period.
 - 9.6.1.2.2 Architects and professional engineers serving on active duty in the armed forces of the United States or any state for a period of time exceeding 120 days in only one calendar year of their renewal period require 15 actual hours of engineering-related learning at the time of license renewal if licensed as a professional engineer, or 12 actual hours of architectural-related learning if licensed as an architect.
 - 9.6.1.2.3 Licensees must submit military orders or other supporting documentation to the Board as proof that they qualify for exemption from the continuing education requirements.
- 9.6.1.3 Architects and professional engineers experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the Board.
- 9.6.1.4 Architects and professional engineers who have elected emeritus status are exempt from the continuing education requirement. In the event such a person elects to have their license to practice reinstated, continuing education hours must be earned for each year of emeritus status before the license will be reinstated, but not to exceed 24 hours for architects or 30 hours for professional engineers. Such credits must be earned in accordance with the restrictions related to continuing education requirements.
- 9.6.2 The Board may, at its discretion, waive the continuing education requirement for any architect or professional engineer.

9.7 Audits

- 9.7.1 The Board may audit any licensee for compliance with continuing education requirements. In addition, the Board will establish a number of ~~architects-and professional-engineers~~licensees, to be selected at random but not to exceed five percent of the total number of licensees, to submit documentation verifying compliance with the continuing education requirement of the ~~previous-current~~ renewal period.
- 9.7.2 Board staff is authorized to review, verify, and approve continuing education audit submittals. Submittals that raise significant questions of acceptability will be forwarded to the Board for final determination.
- 9.7.3 If the Board disallows any of the continuing education hours claimed, the applicant must, within ~~120-60~~ days after notification of disallowance, substantiate the original claim or to earn other credit to satisfy the continuing education requirement. Extension of time may be granted by the Board on an individual basis but must be requested by the licensee within 30 days after notification of disallowance, and may not exceed an additional 60 days.

CHAPTER 10. EXEMPTIONS; CLARIFICATION

10.1 Introduction

Any citation to the state building code means the most recent edition of the state building code as adopted in Neb. Rev. Stat. § 71-6403.

10.2 Definitions; Neb. Rev. Stat. §§ 81-3449 & 81-3453

The following definitions may be used as an adjunct to that reference:

10.2.1 Above-grade Finished Space: For single-family through 4-dwelling units; this includes all enclosed, potentially-habitable area on any level, up to a maximum of three levels.

10.2.2 Detached sheds or storage buildings and attached or detached garages, up to a maximum of three stalls, are exempted from the area calculations for Residential occupancies.

10.2.3 Occupancy Classification relates to the type of occupancy as defined in the state building code.

10.2.4 Building area shall be as defined in the state building code.

10.2.5 Farm building shall be defined as an agricultural building is defined in the state building code.

10.3 Statutory Exemptions to the Engineers and Architects Regulation Act

Notwithstanding other provisions of the E&A Act, persons who are not licensed architects or professional engineers may perform planning and design services in connection with any building, structure, or work as indicated below:

	OCCUPANCY CLASSIFICATION	MAXIMUM BUILDING AREA
10.3.1	A - Assembly	Less than 1,000 square feet
10.3.2	B - Business	Less than 3,000 square feet
10.3.3	E - Educational	Less than 1,000 square feet
10.3.4	F - Factory	Less than 5,000 square feet
10.3.5	H - Hazardous	
	H-1, H-2, H-3, H-4	Less than 2,000 square feet
	H-5	Less than 4,000 square feet
10.3.6	I - Institutional	
	I-1 Personal care	Less than 3,000 square feet
	I-2 Healthcare	Less than 5,000 square feet
	I-3 Detention	Less than 3,000 square feet
	I-4 Day care	Less than 2,000 square feet

- 10.3.7 M - Mercantile Less than 3,000 square feet
- 10.3.8 R - Residential
 - R-1, R-2, R-4..... Less than 4,000 square feet
 - R-3 single family through four-plex Less than 10,000 square feet
- 10.3.9 S - Storage Less than 5,000 square feet
- 10.3.10 U - Utility Less than 5,000 square feet
- 10.3.11 Any structure which contains two or more occupancies is governed by the most restrictive occupancy for the purpose of utilizing Rule 10.3.

10.4 Renovations and One-Level Additions

- 10.4.1 Renovations and one-level additions to an existing building, structure, or work are exempt from the E&A Act if:
 - 10.4.1.1 The total adversely impacted area is less than the area set by Section 10.3 of this Chapter; and
 - 10.4.1.2 The area of renovation or addition does not adversely impact the mechanical system; the electrical system; the structural integrity; the means of egress; and does not change or come into conflict with the occupancy classification of the existing or adjacent tenant space, building, structure or work. If the renovation or addition adversely impacts other areas, the additional areas that are adversely impacted shall be included in the occupancy and building area calculations set by Section 10.3 of this Chapter.

10.5 The Practice of Engineering and Architecture

- 10.5.1 The development and utilization of construction means and methods such as schedules, work plans, work orders and directions, procedures, construction calculations, selection, provision and use of temporary facilities in support of construction activities, reports, selection and use of safety procedures and facilities, instructions and similar items customarily used by contractors to implement construction work designed by licensed persons does not constitute the practice of engineering or architecture.
- 10.5.2 The preparation by employees of construction companies of ancillary drawings and data, such as field details, shop drawings, product data, conceptual drawings, calculations, diagrammatic instructions and similar documents and information, which are typically utilized to implement the construction of a facility designed by a licensed person does not constitute the practice of engineering or architecture.
- 10.5.3 The performance of field layout and installation work by employees of construction companies on projects designed by a licensed person or persons, including construction work such as field staking and measurement; installation of material or equipment at designed locations or locations selected in the field; field fitup and modification work; and layout of construction installation and support work does not constitute the practice of engineering or architecture.

10.5.4 The estimate of the cost of construction work (including the extent of the cost of changes in the work) by construction companies including such things as preparing and reviewing preliminary concepts of the project, identifying the scope of the construction work, preparing preliminary schedules and sequences for the construction work, and evaluating the estimates of subcontractors and suppliers, does not constitute the practice of engineering or architecture.

10.5.5 The performance of work customarily involved in project management of construction work on projects designed by licensed persons does not constitute the practice of engineering or architecture. Examples would be:

10.5.5.1 The evaluation of the project and its budget;

10.5.5.2 Services relating to financing the project;

10.5.5.3 Recommendations on construction feasibility, timing of design and construction, and factors relating to construction costs such as alternative designs prepared by a licensed professional;

10.5.5.4 Procurement of labor and materials;

10.5.5.5 Coordination and evaluation of subcontractor performance;

10.5.5.6 Preparation of schedules;

10.5.5.7 Estimating the project costs;

10.5.5.8 Performing construction work; and

10.5.5.9 Reporting on the progress and costs of the work.

10.5.6 Preliminary and Final Plats

Preparation of a preliminary plat is not restricted, but the final plat must be prepared and certified by a registered Land Surveyor. If, however, the final plat contains streets (other than rights-of-way), sewers, water lines, or other engineering works, it needs to be prepared and certified by both a registered Land Surveyor and a professional engineer. Mathematical details of the final plat are the responsibility of the registered Land Surveyor. Physical details, such as grading, public works, or construction are the responsibility of the professional engineer and may not be certified by the registered Land Surveyor.

10.5.7 Livestock Waste Permits; Neb. Rev. Stat. §§ 81-3449(13) & 81-3453(12)

Under the E&A Act, the seal of an architect or professional engineer will be required for work related to livestock waste facilities only when the work falls within the definition of practice of architecture (Neb. Rev. Stat. § 81-3420) or practice of engineering (Neb. Rev. Stat. § 81-3421).

10.5.8 Water Based Fire Protection Systems; Neb. Rev. Stat. §§ 81-3449 (11) & 81-3453 (7)

Nothing in the E&A Act prevents a certified water-based fire protection system contractor with a responsible managing employee from engaging in the business of installation, repair, alteration, addition, maintenance, or inspection of water-based fire protection systems, or system layout recognized by the State Fire Marshal, in accordance with Neb. Rev. Stat. §§ 81-5,158 to 81-5,164.

10.5.9 Participation in a Conceptual Design Competition

Participation in a conceptual design competition in Nebraska is not considered the practice of architecture or engineering.

10.5.10 Spill Prevention Containment and Countermeasures

Preparation of Spill Prevention Containment and Countermeasure (SPCC) plans for a project located in Nebraska that requires the seal of a professional engineer, constitutes the practice of engineering and must be prepared by a professional engineer licensed by the Board.

10.5.11 Forensic Engineering

Forensic testing requiring the services of an architect or professional engineer, for purposes of the Act, is considered the practice of architecture and/or engineering, regardless of where the test material originated, if the facility performing the testing services is located in Nebraska.

10.5.12 Expert Witness

An architect or professional engineer who serves as a testifying or non-testifying expert in a lawsuit or arbitration in the state of Nebraska regarding issues within the scope of their professional knowledge is not practicing architecture or engineering in Nebraska for purposes of the Act, and such service does not constitute the unauthorized practice of engineering or architecture if the expert is not licensed in this State.

10.6 Building Officials

Notwithstanding these exemptions, the responsible building official may require plans and specifications to be designed and prepared by an architect and/or professional engineer if the official finds a hazard to life, health, safety, or welfare due to the unusual circumstances of the building or structure or an unusually large number of potential occupants in relation to square footage for a particular occupancy.

10.7 Emergency Services

A person who is not currently licensed in this state, but who is currently licensed in another jurisdiction in the United States, may provide uncompensated (other than reimbursement of expenses) professional services at the scene of a declared emergency at the request of a public officer acting in an official capacity.