

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 1, “Administration,” Chapter 2, “Fees and Charges,” Chapter 3, “Application and Renewal Process,” Chapter 4, “Engineering License,” Chapter 5, “Land Surveying License,” Chapter 6, “Seal and Certificate of Responsibility,” Chapter 7, “Professional Development,” Chapter 8, “Professional Conduct of Licensees,” Chapter 9, “Complaints, Investigations and Disciplinary Action,” Chapter 11, “Minimum Standards for Property Surveys,” and Chapter 12, “Minimum Standards for U.S. Public Land Survey Corner Certificates,” Iowa Administrative Code.

These proposed amendments reflect a recent change to the law in 2012 Iowa Acts, Senate File 2127, providing for the use of the title “professional land surveyor.”

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before July 5, 2012. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to robert.lampe@iowa.gov.

A public hearing will be held on Thursday, July 5, 2012, from 9 to 11 a.m. at the offices of the Professional Licensing Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These amendments were approved by the Board on May 3, 2012.

After analysis and review of this rule making, no adverse impact on jobs has been found. The amendments provide for a title change to “professional land surveyor.” Although there should be no impact on jobs, the Board will continue to work with stakeholders to minimize any negative impact and maximize any positive impact towards jobs.

These amendments are intended to implement Iowa Code section 542B.2 as amended by 2012 Iowa Acts, Senate File 2127.

The following amendments are proposed.

ITEM 1. Amend rule **193C—1.2(542B)**, definition of “Land surveyor,” as follows:

“~~Land~~ Professional land surveyor” means a person who engages in the practice of land surveying as defined in this rule.

ITEM 2. Amend rule **193C—1.2(542B)**, definition of “Practice of land surveying,” numbered paragraph “2,” as follows:

2. Activities that the board will construe as the practice of land surveying and for which the board may by order impose a civil penalty upon a person who is not licensed as a professional land surveyor are set out in Iowa Code section 542B.27.

ITEM 3. Amend rule 193C—2.1(542B) as follows:

193C—2.1(542B) General statement. Fees are fixed in such an amount as will defray the expense of administering board responsibilities. Fees are charged in accordance with the following table:

Type of fee	Amount
Renewal	
Active license renewal	\$100
Inactive license renewal	\$40
Reinstatement of lapsed license (In addition to the reinstatement fee, the applicant for reinstatement must also pay the appropriate prorated reinstated license fee below.)	\$100
Reinstatement of inactive to active license	\$60
New or reinstated license (In addition to the appropriate prorated reinstated license fee, the applicant for reinstatement must also pay the reinstatement fee above.)	\$100 Prorated at six-month intervals
Application for examinations	
Principles and Practice of Engineering	\$100
Principles and Practice of Land Surveying	\$100
Examinations	
Fees for NCEES examinations are paid directly to the examination service at the rate established by contract based upon cost of the examination materials and processing expenses.	Variable
Iowa State Specific Land Surveying Examination	\$30
Application for licensure by comity as a professional engineer or professional land surveyor	\$150
Certificates	
Initial professional engineer or professional land surveyor certificate	\$15
Additional or duplicate certificate	\$25
Engineer or land surveyor intern certificate	No charge
Check returned for insufficient funds	\$15
Verification of records for lapsed licensees	\$15 per verification
Late renewal fee (for renewals postmarked after December 31 and before February 1)	\$25

ITEM 4. Amend rule 193C—3.1(542B), introductory paragraph, as follows:

193C—3.1(542B) General statement. A person requesting to be licensed as a professional engineer or professional land surveyor shall submit a completed, standardized, notarized application form, which may be obtained from the board’s office or electronically from the board’s Internet Web page.

ITEM 5. Amend paragraph 4.1(7)“g” as follows:

g. Joint applications. Applicants requesting licensure both as a professional engineer and a professional land surveyor must submit a history of professional experience in both fields. Such histories will be considered separately on a case-by-case basis. The board does not grant full credit for concurrent experience in both professions.

ITEM 6. Amend paragraph 5.1(7)“e” as follows:

e. *Joint applications.* Applicants requesting licensure both as professional engineers and professional land surveyors must submit a history of professional experience in both fields. Such histories will be considered separately on a case-by-case basis. The board does not grant full credit for concurrent experience in both professions.

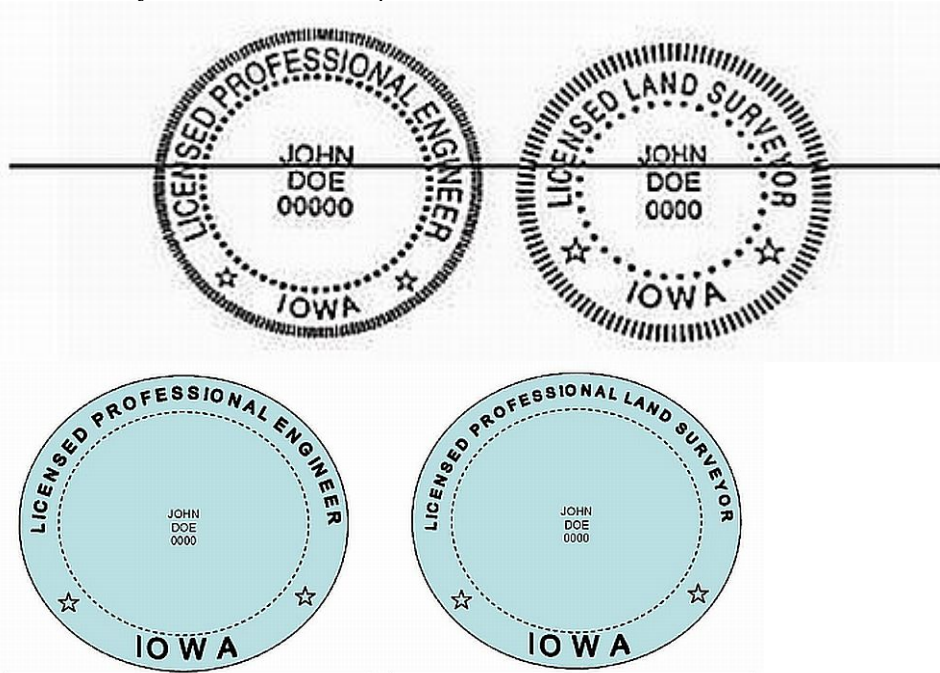
ITEM 7. Amend subparagraphs 5.1(8)“e”(2) and (3) as follows:

(2) Applicants failing one or both parts of the professional land surveying examination will be required to retake only the failed portions. An applicant successful in passing one portion of the land surveying examination need not be reexamined for that portion regardless of how much time elapses between the successfully passed portion and any future appearance to retake the failed portion of the examination. A satisfactory score must be obtained on each portion of the examination before the board will grant licensure as a professional land surveyor.

(3) An applicant for licensure as a professional land surveyor in Iowa (by comity or examination) ~~that~~ who needs to be examined only for the state-specific portion of the professional land surveying examination may take the examination at the board office by appointment in accordance with all other requirements.

ITEM 8. Amend subrule 6.1(2) as follows:

6.1(2) Description of seal. The seal shall include: the name of the licensee, the Iowa license number, the word “Iowa” and the words “Professional Engineer” or “Professional Land Surveyor” or “Professional Engineer and Professional Land Surveyor,” as appropriate. The word “licensed” may be added but is not required on the seal. ~~The word “professional” may be added but is not required on the land surveyor seal.~~ Neither the word “registrant” nor “registered” shall be used on the seal. The seal shall substantially conform to the samples shown below:



ITEM 9. Amend subrule **6.1(4)**, land surveying certification block, as follows:

SEAL	I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed <u>Professional</u> Land Surveyor under the laws of the State of Iowa.

	(signature) (date)
	Printed or typed name
	License number _____
	My license renewal date is December 31, _____.
Pages or sheets covered by this seal:	

ITEM 10. Amend rule **193C—7.6(542B,272C)**, numbered paragraph “3,” as follows:

3. Periods of time that the licensee is a government employee working as a professional engineer or professional land surveyor and assigned to duty outside the United States; or

ITEM 11. Amend rule **193C—8.1(542B)** as follows:

193C—8.1(542B) General statement. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following code of professional conduct shall be binding upon every person holding a certificate of licensure as a professional engineer or professional land surveyor in this state. The code of professional conduct is an exercise of the police power vested in the board by the Acts of the legislature.

ITEM 12. Amend subrule 8.2(2), introductory paragraph, as follows:

8.2(2) Competency for assignments. Licensees shall undertake to perform engineering or land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or professional land surveying involved. Licensees shall engage experts or advise that experts and specialists be engaged whenever the ~~client~~ client’s or employer’s interests are best served by such service.

ITEM 13. Amend subparagraph **8.2(6)“c”(1)** as follows:

(1) Licensees shall not represent themselves as licensed professional land surveyors or professional engineers on real property inspection reports (i.e., mortgage surveys).

ITEM 14. Amend rule **193C—8.4(542B)**, numbered paragraph “3,” as follows:

3. If licensees know or have reason to believe that another person or firm may be in violation of any Iowa law or rule regarding ethics or conduct of professional engineering or professional land surveying practice, those licensees shall present such information to the engineering and land surveying examining board in writing and shall cooperate with the board in furnishing further information or assistance required by the board.

ITEM 15. Amend subrule 8.5(1) as follows:

8.5(1) Purpose of rule. The purpose of this rule is to protect the public from misleading or deceptive advertising by business entities that hold themselves out to the public as providing professional engineering or professional land surveying services and to guard against the unlicensed practice of professional engineering or professional land surveying by persons who are not properly licensed to perform such services in the state of Iowa. This rule shall not be construed as restricting truthful

advertising by business entities that appropriately place professional engineers or professional land surveyors in responsible charge of the professional services offered to and performed for the public.

ITEM 16. Amend subrule **8.5(2)**, definition of “In responsible charge,” introductory paragraph, as follows:

“*In responsible charge*” means having direct control of and personal supervision over any professional land surveying work or work involving the practice of professional engineering. One or more persons, jointly or severally, may be in responsible charge. Indicia of being “in responsible charge” include:

ITEM 17. Amend subrule **8.5(2)**, definition of “Professional services,” as follows:

“*Professional services*” shall include professional engineering and professional land surveying services, as defined in Iowa Code sections 542B.2(5) and (8) and 542B.27, as applicable to the fact situation at issue.

ITEM 18. Amend subrules 8.5(3) to 8.5(6) as follows:

8.5(3) General rule. Business entities offering professional services to the public must be owned, managed, or appropriately staffed by one or more professional engineers or professional land surveyors, as applicable, who are in responsible charge of all professional services offered and performed.

8.5(4) Appropriate staffing. The nature and extent of appropriate staffing by licensed professionals is necessarily a fact-based determination dependent on such factors as the nature and volume of professional services offered and performed, the risk of unlicensed practice, the impact of the professional services on the life, health and safety of the public and the public’s property, and the representations made to the public. While the legal nature of the business entity’s relationship (e.g., owner, manager, employee) with a licensed professional engineer or professional land surveyor is not necessarily determinative, licensed professionals must be in responsible charge of all professional services offered and performed.

8.5(5) Professional engineering or professional land surveying firms. Business entities holding themselves out to the public as professional engineering or professional land surveying firms cannot satisfy the requirements of this rule solely by retaining, through employment or contract, a licensed professional on an as-needed, occasional or consulting basis. Such an arrangement fosters unlicensed practice by the unlicensed owners or managers who place themselves in charge of determining when a licensed professional is needed. When a business entity conveys to the public that it is organized as a firm of licensed professionals, the public has a right to expect that the firm retains the full-time services of one or more licensed professionals. “Full-time” in this context is not measured by hours, but by a licensee’s sustained, meaningful, and effective, direct supervision of all professional services performed, whether the firm performs services, for example, 20 hours per month or 80 hours per week.

8.5(6) Restricted services. Business entities that do not generally hold themselves out to the public as professional engineering or professional land surveying firms, but that do offer some type of professional engineering or professional land surveying service, shall be appropriately staffed by licensed professionals in a manner that (a) corresponds with the representations made to the public, (b) places licensed professionals in responsible charge of all professional services performed, and (c) guards against the unlicensed practice of professional engineering or professional land surveying.

ITEM 19. Amend paragraph **8.5(7)“b”** as follows:

b. Nothing in this rule shall prevent a joint venture arrangement between an engineering or land surveying firm and a business entity that is not owned, managed, or staffed by professional engineers or professional land surveyors, in which the venturing entities jointly and truthfully offer professional engineering or professional land surveying services on a project-by-project basis. Licensed professional engineers and professional land surveyors who participate in such arrangements shall ensure that the public is accurately informed as to the nature of all professional services to be performed and by whom the services will be performed.

ITEM 20. Amend subrule 8.5(8) as follows:

8.5(8) Remedies against licensees. Licensed professional engineers or professional land surveyors who aid and abet the unlicensed offering or practice of professional engineering or professional land

surveying, or who otherwise knowingly participate in a business entity that does not comply with this rule, are engaging in unethical practices that are harmful or detrimental to the public and are subject to disciplinary action by the board.

ITEM 21. Amend rule **193C—9.5(272C)**, numbered paragraph “**14,**” as follows:

14. Whether the licensee practiced professional engineering or professional land surveying with a lapsed, inactive, suspended or revoked license.

ITEM 22. Amend rule 193C—9.6(542B) as follows:

193C—9.6(542B) Publication of decisions. In addition to publication requirements found at ~~193 IAC 7.30(3)~~ 193—subrule 7.30(3), the following notifications shall be issued:

1. Following suspension of a professional land surveyor’s license, notification must be mailed to the county recorders and county auditors of the county of residence and immediately adjacent counties in Iowa.

2. Following revocation of a professional land surveyor’s license, notification must be mailed to all county auditors in Iowa and the county recorders in the county of residence and immediately adjacent counties in Iowa.

3. Following the suspension or revocation of the license of a professional engineer or professional land surveyor, notification must be issued to other boards of examiners for engineers and land surveyors under the jurisdiction of the government of the United States. This notification may be made through the National Council of Examiners for Engineering and Surveying or other national organizations recognized by the board. In addition, if the licensee is known to be registered in another nation in North America, the appropriate board(s) shall be notified of the action.

ITEM 23. Amend rule 193C—9.7(542B) as follows:

193C—9.7(542B) Disputes between licensees and clients. Reports from the insurance commissioner or other agencies on the results of judgments or settlements of disputes arising from malpractice claims or other actions between professional engineers or professional land surveyors and their clients may be referred to counsel or peer review committee. The counsel or peer review committee shall investigate the report for violation of the statutes or rules governing the practice or conduct of the licensee. The counsel or peer review committee shall advise the board of any probable violations, any further action required, or recommend dismissal from further consideration.

ITEM 24. Amend rule 193C—11.1(542B) as follows:

193C—11.1(542B) Scope. Each professional land surveyor shall comply with the minimum standards for property surveys described by statute or administrative rule. The minimum standards in this chapter shall apply to all property surveys performed in this state except those done for acquisition plats as described in Iowa Code chapter 354.

ITEM 25. Amend subrule 11.5(7) as follows:

11.5(7) The plat shall bear the signature of the professional land surveyor, a statement certifying that the work was performed by the surveyor or under the surveyor’s direct personal supervision, the date of signature, and the surveyor’s Iowa license number and legible seal as provided in rule 193C—6.1(542B).

ITEM 26. Amend rule 193C—11.7(542B) as follows:

193C—11.7(542B) Monuments. Permanent monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The licensed professional land surveyor shall affix to the top of each monument set by the surveyor a cap of reasonably inert material bearing an embossed or stencil-cut marking of the Iowa license number of the licensed professional land surveyor. Monuments or marks placed in pavements need not be capped. See rule 193C—11.3(542B).

ITEM 27. Amend rule 193C—12.1(542B) as follows:

193C—12.1(542B) General statement. Each professional land surveyor shall comply with the minimum standards for preparing a U.S. Public Land Survey Corner Certificate as described by statute or administrative rule. The minimum standards in this chapter shall apply to every corner certificate prepared in this state.

ITEM 28. Amend paragraph **12.2(3)“d”** as follows:

d. The certificate shall bear the signature of the professional land surveyor, a statement certifying that the work was performed by the surveyor or under the surveyor’s direct personal supervision, the date of signature, and the surveyor’s Iowa license number and legible seal as provided in rule 193C—6.1(542B).