

**PROPOSED REGULATION OF THE  
DIVISION OF WATER RESOURCES OF THE DEPARTMENT  
OF CONSERVATION AND NATURAL RESOURCES  
LCB FILE NO. R170-20I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 11/12/2020**

**Sec 64/ Criteria for review and approval or denial of an application for extension of time to perfect an appropriation**

**1 In reviewing an application for extension of time to perfect an appropriation, in addition to the criteria set forth in NRS 533 380(4), the State Engineer shall consider, without limitation, the following factors**

**(a) The number of prior applications for extension of time, from the adoption date of this regulation**

**(b) An evaluation of the applicant's consistent measurable effort to perfect the appropriation, including**

**(1) Whether the applicant has consistently performed the steps stated in the prior applications to move the project toward completion and to perfect the appropriation,**

**(2) Whether significant actions have occurred demonstrating the applicant's good faith and reasonable diligence to perfect the appropriation,**

**(3) Whether the applicant has provided evidence of the good faith to perfect the appropriation, and,**

**(4) An explanation by the applicant for the failure to perfect the appropriation as set forth in a prior application**

**(c) The number of years sought in the current application to perfect the appropriation,**

**(d) Whether the applicant has made a demonstration of good faith and reasonable diligence in the construction of works and significant actions made in completing all elements of the project necessary to place the water to a beneficial use,**

**(e) Whether the hydrographic basin in which the water right permit is issued has been designated a critical management area and whether there is an approved groundwater management plan,**

**(f) Whether the applicant is subject to an order of the State Engineer, and,**

**(g) Any other factor that the State Engineer deems relevant in the consideration as to whether the applicant is proceeding in good faith and reasonable diligence to perfect the water right justifying the need for an extension of time**

**2 In considering an application for extension of time, the State Engineer may request additional information and evidence from the applicant if it is deemed necessary to gain a full understanding of the good faith efforts made by the applicant to perfect the appropriation**

**Sec 65 Protests on an Application for Extension of Time**

**1 Protests to an application for an extension of time will be rejected.**

**STATE WATER RIGHT SURVEYOR LICENSES**

**Water Right Surveyor Certificate**

**Sec 66 Qualifications of applicant, application for certificate.**

**1 An applicant for a state water right surveyor certificate must**

**(a) Be at least 18 years of age,**

**(b) Be a licensed professional engineer or land surveyor pursuant to NRS 625, and,**

**(c) Submit an application and the fee prescribed in NRS 533 080(2)**

**2 An application for a state water right surveyor must be submitted to the Office of the State Engineer in person or by mail The application**

**(a) Must be completed and signed by the applicant on a form provided by the Office of the State Engineer**

**(b) Must be accompanied by the fee prescribed in NRS 533 080 and include**

**(1) Documentation of at least 1 year of experience in surveying or engineering demonstrating knowledge in land surveying and mapping and the measurement of water within the last 5 years, that is determined to be appropriate by the State Engineer, and,**

**(2) At least three references attesting to the applicant's knowledge and experience, determined to be satisfactory and appropriate by the State Engineer**

**(c) Is valid for 1 year after the date of submission of the application, unless the applicant fails the examination described in Section 68**

**Sec 67 Exemptions to certain requirements for appointment** The State Engineer may exempt certain requirements for appointment as a state water right surveyor for qualified applicants Pursuant to NRS 5343 080(9), officers and employees of the Federal Government shall be granted an exemption of the requirement that he or she must be a licensed professional engineer or land surveyor The State Engineer shall issue a restricted certificate, limiting those officers and employees to perform work under the certificate for the Federal Government only

**Sec 68 Examinations, denial of certificate, appointment.**

**1 Any applicant applying for a state water right certificate must pass an examination, consisting of a written examination consisting of questions testing the applicant's knowledge of land surveying, mapping, the measurement of water, and the regulations and laws of the State Engineer, on which the applicant must obtain a passing score of at least 80 percent.**

**2 The State Engineer will deny an applicant a certificate if the applicant**

**(a) Fails to notify the Office of the State Engineer at least 3 business days before the scheduled examination date that he or she cannot appear for the examination as instructed by a notice to appear before the State Engineer,**

**(b) The State Engineer will deny an applicant a license after an applicant reschedules an examination more than twice, or**

**(c) Fails to pass the examination described in subsection 1**

**3 The State Engineer shall issue a state water right surveyor certificate to an applicant if that applicant has satisfied the qualifications of subsection 1 Any certificate issued expires on June 30 of each year**

**Sec 69 Examinations Notice to appear, failure to appear**

**1 If the State Engineer schedules an examination for an applicant, the State Engineer must send to that applicant a notice of the time and place to appear before the State Engineer for the examination**

**2 An applicant who is sent a notice shall appear before the State Engineer in accordance with the schedule established by the State Engineer**

**3 If an applicant fails to appear for an examination, he or she must file a new application for a state water right certificate and pay the application fee in effect at the time of reapplication Any fee previously paid is not refundable**

**Sec 70 Examinations Withdrawal** If an applicant is unable to take an examination for which he or she has been scheduled, the applicant must notify the State Engineer of his or her

*withdrawal not later than three business days prior to the date for which the applicant was scheduled*

**Sec 71 Examinations Reapplication after failure or denial of a certificate**

**1 An applicant who fails to pass the examination or has been denied a certificate by the State Engineer pursuant to Section 68, may reapply to take the examination in accordance with subsection 2**

**2 If an applicant fails to pass the examination three times, the applicant may reapply to take the examination only if the applicant furnishes proof that he or she has completed the “Nevada Water Right Surveyor Regulations, Statutes and Forms” course offered through the Office of the State Engineer**

**3 If an applicant reapplies for a state water right certificate pursuant to this section, he or she must file a new application for a state water right certificate and pay the application fee in effect at the time of reapplication. Any fee previously paid is not refundable**

**Sec 72 Renewal of certificate Application for renewal. A state water right surveyor may renew his or her certificate by submitting a renewal application to the Office of the State Engineer in person or by mail so that the Office of the State Engineer receives the application not later than June 30. The renewal application must**

**1 Be completed and signed by the state water right surveyor on a form provided by the State Engineer,**

**2 Be accompanied by the renewal fee prescribed in NRS 533 080, and,**

**3 Except as otherwise provided in subsection 4, include documentation satisfactory to the State Engineer that the applicant has successfully completed, at least once within two consecutive renewal periods, the “Nevada State Water Right Surveyor Regulations, Statutes and Forms” course offered by the Office of the State Engineer**

**4 The State Engineer may exempt or defer a state water right surveyor from the course required by subsection 3, if the state water right surveyor**

**(a) Served on active duty in the Armed Forces of the United States for 120 consecutive days or more during the certificate period immediately preceding the application for renewal,**

**(b) Was prevented from attending the course required by subsection 3 because of a physical disability, serious illness or other extenuating circumstances, or**

**(c) Is within the first renewal period after the state water right surveyor has applied or reapplied for his or her certificate**

**Sec 73 Renewal of certificate Processing of and action on application**

**1 The State Engineer shall process each application submitted for renewal of a state water right surveyor certificate in the order in which the applications are received by the Office of the State Engineer. If the State Engineer determines that an application is complete and the applicant is qualified, the State Engineer shall renew the certificate for the period ending on June 30 of the year after approval of the renewal.**

**2 The State Engineer shall not renew a certificate, if the State Engineer determines, pursuant to Section 66, that the state water right surveyor**

**(a) Is not a licensed professional engineer or land surveyor,**

**(b) Is not of good moral standing,**

**(c) Is not otherwise in compliance with this chapter or chapters 533 and 534 of NRS, or**

**3 If the State Engineer determines that a state water right surveyor is not of good moral standing or has an unacceptable history of noncompliance with this chapter and chapters 533 and 534 of NRS, the State Engineer may deny renewal, refuse renewal for a specified time, or renew the certificate of the state water right surveyor with conditions that the State Engineer considers appropriate In making this determination, the State Engineer will consider**

**(a) The actions of the state water right surveyor with regard to his or her state water right surveyor certificate or other permits issued by the State Engineer pursuant to this chapter or chapters 533 and 534 of NRS**

**(b) The actions of the state water right surveyor with regard to his or her professional engineer or professional land surveyor license**

**Sec 74 Requirements to reinstate an expired certificate To reinstate an expired license, a state water right surveyor must**

**1 File a new application with the fee required by NRS 533 080,**

**2 Pass the examination required by Section 68,**

**3 Petition the State Engineer, in writing, and receive from the State Engineer permission to forgo the requirement to pass the examination, and,**

**4 Except as otherwise provided in Section 72, include documentation satisfactory to the State Engineer that the applicant has completed the required course "Nevada State Water Right Surveyor Regulations, Statutes and Forms" at least once within two consecutive renewal periods**

#### **Code of Conduct**

**Sec 75 Fundamental principles A person appointed as a state water right surveyor by the State Engineer shall uphold the code of conduct under his or her professional engineer license or professional land surveyor license pursuant to NAC Chapter 625**

#### **Standards of Practice**

**Sec 76 Scope of authority under certificate**

**1 A state water right surveyor certificate authorizes the state water right surveyor to make maps, surveys and measurements of flow of water**

**2 A certificated state water right surveyor may perform work necessary on behalf of their client relating to the statutes and regulations governing the Office of the State Engineer If a state water right surveyor performs such work, it will be considered to be an official act under the scope of his or her certificate**

**Sec 77 Responsibilities of certificated state water right surveyor A state water right surveyor appointed by the State Engineer**

**1 Must prepare water right maps in accordance with the guidelines and rules for the preparation of water right maps issued and made publicly available by the State Engineer,**

**2 Shall report a measurement of water using the standards of measurement within NRS 533 065,**

**3 Must perform all surveys in compliance with chapters 533 and 534 of NRS, and**

**4 If performing work necessary on behalf of his or her client relating to the statutes and regulations governing the Office of the State Engineer, perform that work in compliance with those chapters**

**Sec 78 Applicability of statutes and regulations When conducting work under a state water right surveyor certificate in this State, a state water right surveyor shall apply all applicable statutes and regulations in addition to the minimum standards of practice for professional land surveyors established in NAC 625 651 to 625 795, inclusive**

**Sec 79 Responsibility for compliance with standards of practice Responsibility for adherence to the minimum standards of practice for conducting work under a state water right surveyor certificate rests with the appointed state water right surveyor in responsible charge of the work. Failure on the part of any Nevada state water right surveyor to comply with these minimum standards may be considered by the State Engineer as evidence of gross negligence, professional incompetence or misconduct in the practice of a state water right surveyor**

### **Disciplinary Action**

**Sec 80 Procedure for complaints concerning professional misconduct or incompetence Any person who is aggrieved by the alleged professional misconduct or incompetence of a state water right surveyor appointed by the State Engineer may file a complaint with the State Engineer in writing**

**Sec 81 Grounds for disciplinary or other action The State Engineer may take disciplinary action against an appointed state water right surveyor or an applicant for certification for**

**1 The practice of any fraud or deceit in obtaining or attempting to obtain or renew a certificate or cheating on any examination required by this chapter**

**2 Any gross negligence, incompetency or misconduct in the practice of water right surveying**

**3 Aiding or abetting any person in the violation of any provision of this chapter or chapter 533 or 534 of NRS**

**4 Conviction of or entry of a plea of nolo contendere to any crime an essential element of which is dishonesty or which is directly related to the practice of engineering or land surveying**

**5 A violation of any provision of this chapter or regulation adopted by the State Engineer**

**6 Discipline by another state or territory, the District of Columbia, a foreign country, the Federal Government or any other governmental agency, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter**

**7 Practicing after the certificate of the state water right surveyor has expired or has been suspended or revoked.**

**8 Failing to comply with an order issued by the State Engineer**

**9 Failing to provide requested information within 30 days after receipt of a request by the State Engineer concerning an alleged violation**

**Sec 82 Commencement of action against a state water right surveyor**

**1 Upon receipt of a complaint against a state water right surveyor or after the State Engineer makes a finding that a state water right surveyor has violated a provision of this chapter or chapter 533 or 534 of NRS, the State Engineer shall give written notice of an alleged violation**

*to the state water right surveyor by registered or certified mail to the last known address of the state water right surveyor which specifies the provision of this chapter or chapter 533 or 534 of NRS that the state water right surveyor is alleged to have violated.*

*2 If within 30 days after the date of the notice of an alleged violation, the State Engineer*

*(a) Receives a written response to the notice from the state water right surveyor, the State Engineer shall*

*(1) Dismiss the complaint if the State Engineer finds that the complaint was unfounded, or*

*(2) Schedule the matter for a disciplinary hearing*

*(b) Does not receive a written response to the notice from the state water right surveyor, the State Engineer shall schedule the matter for a disciplinary hearing*

*3 The State Engineer may attempt to reach a settlement on any complaints filed before holding a disciplinary hearing*

**Sec 83** *Water right surveyor to provide written notice of disciplinary action taken by another entity*

*1 A state water right surveyor who has been disciplined by another state or territory, the District of Columbia, a foreign country, the Federal Government or any other governmental agency shall notify the State Engineer in writing of such disciplinary action*

*2 The written notice must set forth the grounds, terms and effective date of the disciplinary action*

*3 The state water right surveyor shall submit the written notice to the State Engineer within 30 days after the date on which the disciplinary action is imposed and state whether the disciplinary action is final or on appeal.*

*4 Failure to provide the written notice required pursuant to this section is an aggravating factor in any disciplinary action taken by the State Engineer against the state water right surveyor*

**Sec 84** *Reinstatement of suspended certificate*

*1 A state water right surveyor whose certificate has been suspended pursuant to Section 82 may have the certificate reinstated if the state water right surveyor*

*(a) Is found to have complied with any order issued by the State Engineer as a result of a disciplinary action or a settlement reached prior to a disciplinary action, both pursuant to Section 82,*

*(b) Satisfies the requirements set forth in Section 66,*

*(c) The State Engineer finds that the state water right surveyor is competent to engage in the practice of water right surveying in State of Nevada, and*

*(d) Resolves any outstanding complaints related to his or her certificate as a state water right surveyor to the satisfaction of the State Engineer*

**Sec 85** *Revocation or denial of license*

*1 The State Engineer may revoke a certificate of a state water right surveyor if the State Engineer determines, after an investigation and a disciplinary hearing, that the state water right surveyor has*

*(a) Sworn falsely to a map or survey pursuant to NRS chapter 533 420,*

*(b) Supplied false information to a client, or*

*(c) Been found incompetent as a state water right surveyor by the State Engineer*

***2 If the State Engineer revokes the certificate of a state water right surveyor, the State Engineer shall notify the state water right surveyor that his or her certificate is revoked and the state water right surveyor is prohibited from engaging in any activity which requires a state water right surveyor certificate issued pursuant to NRS 533 080 and these regulations until the certificate of the state water right surveyor is reinstated.***

***3 A state water right surveyor whose certificate has been revoked pursuant to this section may not have the certificate reinstated unless an action for review by the district court is filed pursuant to NRS 533 450***