

MODEL RULES AND REGULATIONS

TO ACCOMPANY

THE PROFESSIONAL GEOLOGIST MODEL LICENSURE LAW



ASBOG[®]

NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY

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Preface

The user of these *Model Rules and Regulations* is referred to the Preface of the *Professional Geologist Model Licensure Law* (hereinafter, *Law*) for nearly identical content and format as to this compilation. In place of "licensure" or "registration," one can substitute "rules and regulations" or "regulations".

Wording in the *Law* publication as to its purpose and use as a general guide and especially the content of the last full paragraph relating to "holding harmless" ASBOG®, its staff, and officers for any errors, omissions, legal interpretation, and related items also applies to this Preface of the *Model Rules and Regulations*.

Please consult the ASBOG® *Professional Geologist Model Licensure Law* document for a complete explanation.

A Note on Grandfathering Phase

The Rules and Regulations of the Board, once formed, necessarily follow the effective date of the enabling legislation. Once the Rules and Regulations of the Board are duly promulgated and adopted, the Board may then begin the process of "grandfathering" or "grandparenting" those that hold degrees in the geosciences that have the necessary work related experience, and meet the standards contained within the adopted geoscience licensure/registration legislation as may be further elucidated upon in the Rules and Regulations of the Board. This period of "grandfathering" or "grandparenting" generally begins once the Rules and Regulations of the Board are adopted and by common practice continues for one (1) year after applications become available from said licensure/registration board. This phase allows those whose degrees and work experience meets the standards contained in the enabling legislation and the Rules and Regulations of the Board with the exception that passage of any geoscience competency examinations are waived prior to becoming licensed/registered.

The necessity of a grandfathering phase is related to the U.S. Constitution and its amendments making a "profession" a property right of the individual and as such, there must be an adequate period of time for those persons to become licensed/registered without the requirement of examination(s). To do otherwise would deny that person's right to practice his/her profession and that doing otherwise would constitute an unlawful taking on one's property, i.e. his/her profession.

MODEL RULES AND REGULATIONS

(To accompany *The Professional Geologist Model Licensure Law*)

Preamble

The following *Model Rules and Regulations* (hereinafter "*Rules and Regulations*") are intended to provide guidance to states wishing to update their existing geologist licensure regulations or to a state that is wishing to develop rules and regulations once proposed legislation for geological licensure are adopted by the appropriate jurisdictional authorities. These Model Rules and Regulations are recommended as a companion to, and a derivative of *The Professional Geologist Model Licensure Law* ("*Law*"). It is intended that these *Rules and Regulations* be consistent with that *Model Law*. The major content of these *Rules and Regulations* is taken from rules and regulations already in place within the 32 Member Boards of ASBOG® (as of 2019).

Great care has been taken to avoid merely repeating the language of corresponding sections within the *Law* and *Rules and Regulations*. At the same time, direct quotes, where needed for amplification and/or clarification, are utilized to relate the *Rules and Regulations* to the *Law*.

Definitions: LAW – RULE – REGULATION. Synonyms: "(they) mean a principal action or procedure. LAW implies imposition by a sovereign authority and the obligation of the part of all subject to that authority (obey the *law*). RULE applies to more restricted or specific situations (the *rules* of the game). REGULATION implies prescription by authority in order to control an organization or system (*regulations* affecting nuclear power plants)." (Merriam-Webster's Collegiate Dictionary, Tenth ed., 1993, p. 659).

The reader of these *Rules and Regulations* is encouraged to also read and understand the complete text of the *Law*, including its purpose and scope, both of which are contained in the "Preface" and "Notes on the Use of this Document".

Terminology. For the purposes of this document, the masculine gender includes the feminine, and the feminine the masculine. The singular includes the plural, and the plural the singular.

Notes. The Notes section (at the end of this document) contains individual section cross-references to specific state regulations should further clarification and/or language wish to be referred to.

RULES AND REGULATIONS OF THE
(STATE OR OTHER JURISDICTION NAME)
BOARD OF LICENSURE FOR
PROFESSIONAL GEOLOGISTS

SECTION 1. GENERAL PROVISIONS

1-1. Authority. Enabling legislation -- *The Professional Geologist Model Licensure Law* and related statutes cited here from the initial effective date and subsequent amendment dates, governs these Rules and Regulations.

1-2. Purposes. It is hereby declared to be the public policy of (State name or other jurisdiction) that, in order to safeguard the life, health, property and public well-being of its citizens, any person practicing or offering to practice geology in this State or other jurisdiction name shall meet the requirements of these rules and regulations. The accompanying Rules and Regulations establish procedures for the organization and operation of the Board, whose purpose is to regulate the public practice of geology.

1-3. Definitions. Please see Appendices 1 and 2 for all definitions utilized in these Model Rules and Regulations.

SECTION 2. ORGANIZATION OF THE BOARD

2.1. Authorization. The Board of Licensure for Professional Geologists (Board) shall administer the provisions of *The Professional Geologist Model Licensure Law*.

2.2. Composition. The composition of the Board shall be as designated in Section 6 of the *Law* as follows: five geologists and one public member, appointed by the Governor, approved by the Secretary of State or other jurisdiction name, and confirmed by the Senate. There shall be one (1) member each appointed from the governmental sector, from academia, from the geotechnical-environmental industrial sector, from the mining-mineral extraction industrial sector; one member appointed at-large; and one public member (optional). The Commissioner (Director) of Natural Resources or the State Geologist may serve as an *ex officio* member. The remaining language [*Law, Secs. 6 and 10*] concerning terms of office, limits, reappointments, successions, vacancies and other provisions governs in this regulation.

2-3. Qualifications. Qualifications for Board Members -- both geologic members (citizenship, residency, length of practice, and licensure) and public member (citizenship, residency, conflict of interest) -- shall be in strict accordance with the requirements stated in the *Law, Sec. 7*. In addition, the language concerning the Nominating Committee [*Law, Sec. 7(3)*] governs in this regulation.

2-4. Compensation. Board Members shall be compensated on a daily allowance (per diem) basis. They shall be reimbursed for travel expenses, by law, consistent with other State (or other jurisdiction name) boards. Other provisions [*Law, Sec. 8*] President of the Board (or Chairperson) to act also as Executive Director/Board Administrator, and the Board electing not to receive per diem by a simple majority vote prevail in these Rules and Regulations.

2-5. Removal or suspension from the Board. Consistent with the *Law, Sec. 9*, the Governor may remove any Board Member for misconduct, incompetency, negligence of duty, or any other sufficient cause. All parts of *Section 9* govern in this regulation.

2-6. Vacancies. Vacancies in the membership of the Board shall be filled for the unexpired term by appointment by the Governor subject to the qualifications consistent with the sector of representation to the extent practicable [*Law, Secs. 6 and 10*].

2-7. Rules of Procedure. The Board shall create and adopt bylaws [*Law, Sec. 11*] to govern its business and meetings.

2-8. Meetings. The Board shall meet within 60 days after the first appointment of its members; and, thereafter, hold at least two (2) regular meetings per calendar year [*Law, Sec. 12(1)*]. Bylaws [*Law, Secs. 12(5), 18(11)*] and Sec. 2-7 (above) shall include, and be consistent with, the appropriate sections of the *Law*.

2-9. Liability Exemption/Legal Defense. Board Members and the Executive Director/Board Administrator (if there is one appointed by the board) are exempt from civil liability and shall be eligible for legal defense from the Attorney General [*Law, Sec. 13*] while conducting official duties and fulfilling responsibilities of the Board..

2-10. Open Meetings. Open Meetings and the Administrative Procedures laws, as well as the federal Freedom of Information Act (FOI), shall apply to all Board meetings [*Law, Secs. 14, 17*]. All meetings shall be open to the public and shall be advertised in a web site posting and/or in a newspaper of general circulation

in (State or other jurisdiction name or other jurisdiction) at least 30 calendar days prior to a meeting date subject to the laws of (state or other jurisdiction name). The Board may go into executive session to discuss personnel matters, and any other pertinent topics as allowed for and/or permitted under state or other jurisdiction name law, but shall reveal the final vote taken during that session in accordance with FOI (see Section 2-13 of these *Rules and Regulations*). Written meeting minutes shall be made available in the Board's office for public inspection, once approved by the Board, and for note-taking. Copies may be obtained upon payment of appropriate fees.

2-11. Registered/Licensed Professional Geologists Fund. A fund shall be created in this State or other jurisdiction name's treasury, called the "Registered/Licensed Professional Geologists Fund", to be used to pay reasonable costs associated with the administration and enforcement of this *Law*. The fund is to be administered by the Executive Director/Board Administrator, or Board President if an Executive Director/Board Administrator is not employed [*Law, Sec. 17*]. Other subparagraphs of *Section 17* -- covering expenditures, special trust fund, income sources, and a carryover provision -- all govern in this regulation.

2-12. Maintenance of Records by the Board. The Board shall maintain a record of all business conducted by the Board and shall preserve, subject to appropriate provisions in the Act, all books, documents and papers entrusted to their care.

2-13. Records Open to the Public. Minutes, orders, rules and regulations, and related actions, including the final vote from each executive session (personnel matters and any other legally permitted topics), shall be kept in a record book available for public inspection in accordance with the *Law, Secs. 16 and 17*. The Board shall also provide, at cost, a copy of its rules and regulations, or provide the same information electronically on its website. In addition, the Board shall keep a public record of applications for licensure; and a registry (roster; Section 3-3d) of all registered/licensed Professional Geologists and geologists-in-training (if applicable), available to anyone upon written request with enclosed funds sufficient to cover all production costs by the Board for each copy [*Law, Sec. 16*]. Information concerning Board finances shall be subject to the open records act of (State or other jurisdiction name), but the Board is authorized [*Law, Sec. 17*] to promulgate the appropriate regulation placing conditions and/or exceptions, and bearing of costs, before releasing financial data. Details stipulated [*Law, Sec. 17*] govern any such request. Delays in making records available for inspection may be occasioned by action necessary to preserve the security of records, to obtain legal advice, or to avoid disrupting regular business activities. For these reasons, it is recommended that requests be submitted, at a minimum of, ten (10) business days in advance of anticipated inspection.

SECTION 3. POWERS, DUTIES AND RESPONSIBILITIES OF THE BOARD

Authorization

3-1. Model Law. "In addition to any other powers, duties, and responsibilities granted under the laws of this [jurisdiction] or provided for in this Act, the Board shall have the following powers and duties" [*Law, Sec. 18*].

Powers, Duties and Responsibilities

3-2. The Board is authorized:

a. to apply for any external, non-appropriated, funds; and to receive and expend any federal or state [or other jurisdiction] funds or private contributions, gifts, devises, bequests, or funds from any other source [*Law, Secs 3(1), 18 (3)*];

b. to identify geoscience specialties, if desired; establish qualifications, administer examinations in those specialties (for example, Engineering Geology, Hydrogeology) to qualify applicants, and to recognize and authorize the use of certain geologic designations as determined by the Board and to issue certificates in those specialties [*Law, Sec. 18 (7)*];

c. to purchase and/or prepare, administer and grade oral and/or written examinations authorized [*Law, Sec. 18(8)*]. Examinations will be offered under terms as follows:

1. Examinations will be administered to applicants at a location to be determined by the Board.
2. An applicant may request an accommodation in accordance with the Americans with Disabilities Act, *provided* the request is in writing on a form approved by the Board, and proof of disability is documented.
3. An applicant who does not arrive on time to take a scheduled examination shall forfeit both the examination fee and the opportunity to take the examination itself.
4. Cheating on an examination is grounds for denial, suspension, or revocation of a license and/or an administrative penalty.
5. An applicant who has passed an examination may not retake that examination.
6. An applicant must pass the two part ASBOG® examinations or equivalent.
7. Applicants requesting a waiver from any examination(s) shall file with the application any additional information needed to validate eligibility for the waiver [*Regs., Sec.9*].

d. to prepare and conduct, at the Board's discretion, continuing education programs with (voluntary or mandatory) participation as a condition of licensure, renewal or re-licensure. The Board is authorized to set the minimum number of annual or biennial hours and may require its approval of both the kind of continuing education activity and the person(s)/firm(s) who is (are) conducting the activity [*Law, Sec. 18(10); and Rules and Regulations, Sec. 17*].

e. to promulgate, adopt and issue, amend and authorize the enforcement of all rules and regulations of procedure [*Law, Sec. 12(5)*], including but not limited to, additional standards of professional conduct and ethics for Professional Geologists not specifically contained in this *Law*. These rules, regulations, and standards of professional conduct shall be binding upon all registrants/licensees, enrollees and non-registered/licensed persons found to be in violation of the provisions as set forth in this *Law*. Violation of these aforementioned rules and regulations of procedure, standards of professional conduct and ethics shall be enforced as required and allowed by the Board [*Law, Sec. 18(11)*];

f. to investigate all complaints of violations of this Act, to impose sanctions and penalties, to cite and fine persons engaged in the unlawful practice of geology; to subpoena witnesses, require submission of documents: books, papers, notes, and any other similar items; to administer oaths and affirmations; to institute and maintain legal actions to enforce this Act, and to seek injunctions [*Law, Secs. 12-14; and Secs. 31-34*]. For further details see Rules and Regulations, Section 4: Legal and Investigative Assistance.

g. to employ an Executive Director/Board Administrator (as deemed necessary), other qualified personnel, and contractual persons as may be needed for the operation of the Board [*Law, Sec. 18 (5); Rules and Regulations, Sec. 5*].

h. to delegate powers, duties and responsibilities to the Executive Director/Board Administrator as deemed necessary to efficiently administer this *Law*; for example, enter into contracts, grants or cooperative programs, public or private [*Law, Secs. 18(4), 18(15), 20*].

i. to appoint committees; employ personnel; engage contractors and consultants; lease or purchase furnishings, equipment and supplies; lease or purchase office space; and incur other similar expenses in connection with its operations and the administration of the *Law*, within the funds available to it and the limitations set forth herein and in this jurisdiction's administrative procedures act or other applicable jurisdictional laws [*Law, Sec. 18(20); and Rules and Regulations, Sec. 5-1 e.*].

Other Powers and Authorities

3-3. The Board is also allowed to have and to execute all other powers and authorities consistent with the *Law*, not enumerated herein, as are necessary for the administration and enforcement of the *Law*. Those powers and authorities shall include, but are not limited to, items as follows:

a. Rules and regulations. Promulgate, adopt and issue, amend and authorize enforcement of new rules and regulations [*Law, Sec. 18 (11)*].

b. Seal. Create and adopt an official seal and alter that seal at the pleasure of the Board. Require each Registered/Licensed Professional Geologist (R.P.G. or L. P. G.) to affix his/her signature and seal -- the seal to be purchased by the L. P. G. -- on all geologic reports, maps, logs and any other documents prepared by the L. P. G., or under his/her supervision [*Law, Secs. 18 (2), 26 (5), 30*]. Purpose: Assure the user of the geoscience product that the work has been performed by the professional geoscientist named and to delineate the scope of the geoscientist's work [*Law, Sec. 30*]. See *Rules and Regulations, Sec. 15*.

c. Fees. Establish necessary fees [details, *Law, Secs. 3(5), 18 (6), 27; and Rules and Regulations, Sec. 12*] to be collected from applicants, registrants/licensees and enrollees to support administration and enforcement of this *Law*.

d. Roster. Prepare a roster (registry) of all registrants (licensees) and enrollees, Professional Geologists and geologists-in-training, respectively [*Law, Sec. 16 (3)*], consistent with the licensure provisions of each category [*Law, Secs. 21-30*]. Such a roster may be electronic (Board's website) or published, or both, at the discretion of the Board.

e. Minimum qualifications. Require minimum qualifications for both registered/licensed Professional Geologists and geologists-in-training [*Law, Secs. 21, 22*]. For details, see *Rules and Regulations, Section 3-2 c. 6 (Examinations) and Section 5, Qualifications for Licensure*.

- f. Application Form. Issue and require use of a standard form for all applicants for registration/licensure [Law, Sec. 25; and Regulations, Sec. 10-2].
- g. Licenses. Issue or deny registrations/licenses; and establish requirements for reissuing registrations/licenses that have lapsed, expired or have been suspended or revoked, or lost/destroyed/mutilated [Law, Sec. 26; and Rules and Regulations Sec. 11].
- h. Temporary licenses. Adopt requirements for issuing temporary registrations/licenses or permits; establish mutually agreeable criteria with other State or other jurisdictional Boards for temporary licensure [Law, Secs. 18 (19), 23; and Rules and Regulations, Secs. 3-3h. and 8].
- i. Exemptions. Waive certain individual requirements for registration/licensure, except payment of applicable fees [Law, Secs. 18 (1), 18 (17), 24 and 37; and Rules and Regulations Sec. 21].
- j. Reciprocity. The Board, at its discretion, may recognize out-of-state registration, licensure or certification; and enter into reciprocal (mutual recognition) licensure agreements with other State or other jurisdiction name Boards [Law, Secs. 18 (18) 18 (19), 23, and 28; and Rules and Regulations, Sec. 13].
- k. "C.P.G.". Recognize the designation "C.P.G." ("Certified Professional Geologist") as used by the American Institute of Professional Geologists; and/or "C.P.G.", ("Certified Petroleum Geologist") as used by the American Association of Petroleum Geologists; and/or "C.G.W.P." ("Certified Ground Water Professional") as used by the National Groundwater Association [Law, Sec. 29; and Rules and Regulations, Sec. 14].
- l. Ethics. For any additional standards of professional conduct and ethics, promulgate, adopt and issue, amend and authorize the enforcement of additional standards for Professional Geologists not specifically contained in the Law, Secs. 18 (11), 34. (Section 16 of these Rules and Regulations lists a Code of Ethics.)

SECTION 4. LEGAL AND INVESTIGATIVE ASSISTANCE

4-1. The Board, with the approval of the (jurisdiction's name) attorney general or other appropriate legal officer, is authorized to retain outside counsel in order to enforce the provisions of this Act. The Board may also request the jurisdiction's attorney general or other appropriate legal officer to act as a legal adviser to the Board and to render such assistance as the Board may require. It shall be the duty of all respective officers charged with enforcement of laws and ordinances to prosecute all persons charged with the violation of any of the provisions of this Act. The Board, its agents and employees shall aid these officers in the enforcement of this Act [*Law, Secs. 19, 34*].

SECTION 5. POWERS, DUTIES AND RESPONSIBILITIES OF THE Executive Director/Board Administrator

5-1. Powers, Duties and Responsibilities. If the Board employs an Executive Director/Board Administrator, the Executive Director/Board Administrator shall have the following powers, duties and responsibilities:

- a. Board policies and activities. Within the authority of the Board, administer Board policies; and supervise and direct all administrative, technical and investigative activities of the Board.
- b. Administrative work plan. Under a Board-adopted plan, organize the administrative units of the Board; modify the plan as needed; and reassign responsibilities, with the Board's approval, as deemed necessary to carry out the policies of the Board.
- c. Board orders. Issue, modify or revoke any orders under authority granted by the Board.
- d. Grants, contracts and cooperative agreements. Enter into grants, contracts and cooperative agreements (including reciprocity/comity as allowed, and if appropriate, with other geology licensing boards) as approved by the Board. Such grants, contracts and cooperative agreements may be with any entity: government agency, public or private institution or other person needed to implement this Law; [Rules and Regulations, Sec. 3-2 i].
- e. Financial responsibility. Receive, administer and account for any funds received by the Board.
- f. Annual Report. Prepare and deliver to the Legislature and the Governor (or appropriate designees) an Annual Report, due on or before January 2, or any other time a report is requested by the Legislature or Governor, of the Board's activities; a detailed report of revenues and expenditures; and any recommendations from the Board to those named entities.
- g. Other powers and duties. Discharge any other powers, duties and responsibilities as directed or delegated by the Board.

5-2. Performance bond. The Executive Director/Board Administrator shall give a surety bond satisfactory to the Board, conditioned upon faithful performance of the Executive Director/Board Administrator's duties. The premium on the bond shall be regarded as a proper and necessary expense of the Board.

5-3. Salary and termination. The Executive Director/Board Administrator's salary range shall be determined by the State's or other jurisdiction name's human resources agency (or other appropriate entity). The Board shall hire and set the initial salary, less benefits; and shall annually review the salary level and performance of the Executive Director/Board Administrator who serves at the pleasure of the Board. Termination occurs with a minimum of two (2) weeks' notice from either the Executive Director/Board Administrator or the Board. The two-week notice may be superseded by any written employment policy already in place.

5-4. President serving as Executive Director/Board Administrator. If the Board does not employ an Executive Director/Board Administrator, the President (Chairperson) of the Board shall have the powers and duties provided in Section 5-1; and will be required to post a surety bond according to the conditions in Section 5-2. Any salary for the President (Chairperson) serving as the Executive Director/Board Administrator shall be at the discretion of the Board and subject to all jurisdictional laws and regulations.

SECTION 6. REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL GEOLOGIST

6-1. Academic and work experience requirements. An applicant for Registered/Licensed Professional Geologist must satisfy the minimum requirements, both education and work experience, as follows:

a. Graduation, with a course of study in geosciences satisfactory to the Board from an accredited college or university, or from a program accredited by an organization recognized by the Board, of four (4) or more years, and which includes at least thirty (30) semester hours or forty-five (45) quarter hours of credit in geologic course work suitable to the Board, with a major in geology or a geoscience specialty. The course of study in geology or geoscience shall be clearly identified and designed to teach fundamentals of geology, and principles and practices of geology, and shall be designed to educate the student to engage in the practice of geology. Applicants shall arrange to have the registrars of colleges, universities, or other educational institutions send official or certified transcripts of course work, grades and degrees directly to the Board [Law, Sec. 21 (1)(a)].

b. Demonstration through a specific record of a minimum of five (5) years of qualifying work experience after completion of the academic requirements in geology or a geoscience specialty indicating that the applicant may be competent to publicly practice geology or a specialty (*Rules and Regulations, Sec. 13-1. e.*). A graduate degree in geology, or its subdivisions, including geophysics, geochemistry, engineering geology may be substituted as part of the total experience requirements for licensure, at the rate of one (1) year for a master's degree and one (1) year for an earned doctorate. Credit for a graduate degree may not exceed a total of two (2) years toward meeting the required number of years of professional geological work [Law, Sec. 21 (2)]. The Board may give credit for geological research at an accredited college or university as qualifying experience, if the research, in the sole opinion of the Board, is comparable to experience obtained in the practice of geology or a specialty. The Board may require the experience be gained under the supervision of a geologist registered/licensed in their jurisdiction or any other State or jurisdiction with at least as stringent geologic licensure or registration requirements, or under the supervision of others who, in the sole opinion of the Board, are qualified to have responsible charge of geologic work. The applicant must summarize all geological and related professional work experience and provide the names and addresses of supervisors.

If the applicant cannot provide the name and address of at least one supervisor, an applicant shall provide a written and signed explanation and the name and address of one additional professional reference. This additional professional reference shall not be a relative or subordinate employee of the applicant [Law, Sec. 21 (1) (b)].

6-2. Provide a minimum of three (3) letters of reference from geologists or geoscientists who are not relatives or subordinate employees of the applicant and who can attest to the applicant's professional character, reputation and qualifications. One or more of the letters of reference shall verify geoscience experience claimed to meet the minimum years of experience required. All references shall be individuals with personal knowledge of the applicant's character, reputation, and general suitability for holding a license. If possible, references should include individuals who have directly supervised the applicant. Out-of-state professional geoscientists who provide reference statements shall include a copy of their wallet-size geologist's practice license or other verification to indicate that their license is current and valid [Law, Sec. 21 (1) (d)].

6-3. The Board may establish other rules and regulations including that an applicant possess at least a bachelor's degree in geology or geoscience, as specified previously in this section (Section 6-1 b.), prior to being allowed to sit for any examination [Law, Sec. 21 (1) (e)] .

6-4. The applicant shall pass the two-part ASBOG® examination as developed by the National Association of State Boards of Geology (ASBOG®) or its successor: Fundamentals of Geology and Practice of Geology [Law, Sec. 21 (1) (c)] and any other jurisdictional examinations as determined and prescribed by Board.

a. The candidate must notify the Board and pay the appropriate, non-refundable examination fee not less than sixty (60) days (or as determined by the Board) prior to the scheduled examination;

b. Each candidate must establish eligibility for each of the two parts of the ASBOG® examination as follows:

1. Fundamentals of Geology: meet the academic requirements (*Rules and Regulations, Sec. 6-1 a.*); and have a completed, approved application on file with the Board; and
2. Practice of Geology: meet the work experience requirements (*Rules and Regulations, Sec. 6-1 b.*) after taking the Fundamentals of Geology examination.

c. The ASBOG® examinations are offered twice a year at dates and times as determined by ASBOG®. The Board shall notify or make available on its web site the date of the examination of the date, time and place of the examinations. If the candidate fails to appear for the examination, the examination and all other associated fees shall be forfeited. The Board shall notify all candidates of their success or failure on any examination as soon as practicable after the Board has received scores from ASBOG® (or its successor).

d. Any candidate who fails the examinations may request to be re-examined as follows:

1. To be reexamined, a candidate must notify the Board and pay the appropriate non-refundable examination fee not less than sixty (60) days prior to the scheduled examination;
2. After paying the examination fee, a candidate may be reexamined within an eighteen (18)-month period of the date of the failed exam without filing a new application;
3. A candidate who fails the initial examination and two (2) subsequent re-examinations shall be disqualified from taking the examination a fourth time, until submitting a written plan for passing the examination and meeting with the Board, if requested.

6-5. No person shall be eligible for licensure as a Professional Geologist who is not of good character and reputation (*Sec. 16, Ethics*).

SECTION 7. REQUIREMENTS FOR ENROLLMENT AS A GEOLOGIST-IN-TRAINING

7-1. The Board may issue Geologist-In-Training status if the applicant meets the following criteria *[Law, Secs. 18 (9) and 22]*.

a. The applicant shall meet the educational requirements *[Law, Sec. 22 (1) (a)]*, and

b. The applicant shall have passed the Fundamentals of Geology portion of the national examination developed by the National Association of State Boards of Geology (ASBOG®) or its successor *[Law, Sec. 22 (1) (b)]*.

7-2. The applicant will be informed by letter regarding the results of the Board review.

7-3. Once approved by the Board the applicant shall identify himself/herself as a Geologist-In-Training. A Geologist-In-Training shall comply with all laws and regulations relating to the practice of geology.

SECTION 8. TEMPORARY LICENSES/PERMITS

8-1. The Board may issue a temporary license to an applicant defined as a "Registered/Licensed Professional Geologist" [*Law, Sec. 4 (14); Rules and Regulations, Sec. 3-3 h.*]. A temporary license holder is subject to all rules and regulations and legal requirements to which a standard registrant/licensee is subject. The Board may issue a temporary license to an applicant for licensure who is currently registered/licensed in another jurisdiction, and who:

- a. has held such a license in good standing as a geoscientist for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this Board and has passed a national or other examination(s) recognized by the Board related to the discipline of geoscience for which licensure is being sought;
- b. submits all required forms and fees; and
- c. complies with and meets the requirements set forth in this Act.

A temporary license expires either on the ninetieth (90th) day after the date of issuance or on the date a reciprocal license [*Law, Sec. 28*] is issued or denied, whichever event occurs first. The application fee is non-refundable [*Rules and Regulations, Sec. 12-1*].

SECTION 9. EXCEPTIONS ALLOWABLE FOR LICENSURE

Wording in this section is identical to *Law, Sec. 24*. See *Law, Sec. 18(1)* and *Regulation 3-3i* for related authority, and *Law, Sec. 37* for "Exemptions" -- similar, but not the same, authority.

9-1. Upon written request of an applicant, the Board may waive, on a case-by-case basis, any requirement for licensure or enrollment, except payment of any and all applicable fees. The request shall state the reasons a waiver should be granted. The requirements waived, and the basis for that waiver, shall be recorded in the applicant's record and in the proceedings of the Board, and any waiver may be subject to repeal or suspension as determined by the Board.

SECTION 10. APPLICATIONS

Authority: *Law, Sec. 25.*

10-1. Classification of Applications. In order to insure that each applicant's qualifications will be evaluated in accordance with the *Law*, the Executive Director/Board Administrator or his/her assistant will, after an initial review of the qualifications presented by the applicant, substantiate the qualifications and will classify the application into one of the following groupings for evaluation and approval or disapproval by the Board:

- (a) Class 1 – Professional Geologist's Application
- (b) Class 2 – Geologist-in-Training Application
- (c) Class 3 – Specialties Application
- (d) Class 4 – Application for Comity/Reciprocity
- (e) Class 5 – Application for Renewal
- (f) Class 6 – Application for Replacement of lost or destroyed certificates

10-2. Application Form.

- a. All applications for licensure as a Professional Geologist, for enrollment as a Geologist-in-Training, in general or in any specialty, shall be on a form provided by the Board -- either on the Board's website or paper copy -- and no applications made otherwise will be accepted [*Law, Sec. 25 (1)*]. The applicant may request additional forms or duplicate the experience record part of the application form when space on the original form is insufficient. Black ink must be used and in a font suitable for copy reproduction. All questions must be answered. Incomplete, or improperly prepared, applications will be returned with a statement of the reason for the return. The completed application shall be signed and dated by the applicant and sworn to before a Notary Public or other person qualified to administer oaths. The completed, notarized application, or renewal for licensure, shall be accompanied by the appropriate application fee [*Law, Sec. 25 (2)*].
- b. All applications for examination and enrollment as a Geologist-in-Training shall be filed with the Board at least sixty (60) days before the date set for examination subject to constraints imposed by ASBOG® and/or the Board's Executive Director/Board Administrator. Applications for examination and licensure as a Professional Geologist shall be filed with the Board at least sixty (60) days before the date set for examination. These time limits shall allow for ordering examination forms by the Board to fit the ordering date deadline.
- c. Withholding information, misrepresentation, or false statements will be cause for denial of the application.
- d. A geologist who is registered or licensed in another State, the District of Columbia, Territory or Possession of the United States, and whose license or registration is current, may apply for licensure by reciprocity (comity) in this State or other jurisdiction name, provided that in order to obtain said license or registration the geologist has met requirements which are substantially the same as, or more stringent than, those required in this State or other jurisdiction name (*Rules and Regulations, Sec. 13.*).

e. The Board requires an official transcript from each college or university where the applicant received a degree with a major in geology or related science. The official transcript(s) should show degree(s) conferred and date of issuance. It is the responsibility of the applicant to see that such an official transcript is sent directly from the institution(s) to the Board's office; no action will be taken by the Board until such documentation is received. All costs for such documentation shall be borne by the applicant.

f. A graduate of a foreign institution shall have his or her official transcript(s) sent directly from the institution to a Board-approved organization (agency) that specializes in evaluating educational credentials for translation and authentication. Documentation of translation and authentication including the original, official transcript(s) should then be sent from the Board-approved organization (agency) directly to the Board office for evaluation by the Board. In no case shall an applicant be registered/licensed without compliance to all of the preceding requirements. All costs for verification shall be borne by the applicant.

10-3. Reconsideration of Denied Applications.

a. A denied application for licensure, or enrollment, may be reconsidered by the Board if notice of appeal is filed with the Executive Director/Board Administrator within thirty (30) days after the applicant has been notified of the ruling of the Board.

b. A hearing before the Board shall be held within one hundred twenty (120) days after filing of the notice of appeal, or at such time agreed upon by stipulation between the applicant and the Executive Director/Board Administrator. The hearing shall be held by at least a quorum of the Board, as defined in the Board's bylaws.

c. Evidence shall be admitted at the hearing in accordance with the appropriate laws of this State (or other jurisdiction). The applicant shall be allowed to have legal counsel present if desired.

d. The Board shall issue a final decision within thirty (30) days of the date of the hearing, which shall include findings of fact and official notice taken. The applicant shall be delivered a copy of the decision by first-class mail.

e. Formal review of the decision of the Board shall be in accordance with the (State's or Jurisdiction's) Administrative Procedures Act.

f. The record of appeal shall be certified by the Executive Director/Board Administrator of the Board, and shall include the recorded minutes of the hearing.

10-4. Disposition of Applications.

- a. Approved Applications – When the Board, after due consideration of an application and information pertaining thereto, is satisfied that the applicant is eligible for enrollment as a Geologist-in-Training, or licensing as a Professional Geologist, the applicant will be granted a certificate or a license, and the applicant will be notified by the Executive Director/Board Administrator.
- b. Deferred Applications – If an applicant’s geological training and work experience are considered inadequate upon Board review, but the Board believes the minimum legal requirements may be met within one (1) year, such application may be held by the Board for up to one (1) year without approval or denial. Such applicant will be advised of the basis for holding the application, of additional information to be submitted, and of the approximate date on which the application will be formally re-considered . If more than one (1) additional year of experience is considered necessary, the application will be denied.
- c. Denied Applications – When the Board, after due consideration of an application and of information pertaining thereto, finds that the applicant is not eligible for licensure or enrollment (under this Act, the applicant will be denied licensure (or enrollment) and the application will be held for five (5) years. The applicant will be notified of the action of the Board by the Executive Director/Board Administrator, and for further consideration the applicant may submit a new application, without fee, after securing the necessary experience if deficient, provided the re-submittal is within five (5) years.
- d. Appeals – Appeals concerning decisions of the Board with regard to applications shall be in accordance with *Regulation 10-3 e.*, above, and the (State’s or Jurisdiction’s) Administrative Procedures Act.
- e. Inactive Applications – If all necessary information and documentation required for Board review are not received within one (1) year after the application has been filed, the application will be placed in the inactive file and the applicant will be notified.
- f. Records Retention Schedule – Applications that fall into the following classifications will be maintained on file in the Board office for the period shown and thereafter may be destroyed:
 - (a) deferred - two (2) years
 - (b) denied - five (5) years
 - (c) inactive - two (2) years.
- g. Disciplinary Action – Any application that involves disciplinary action or violations will be retained by the Board for no less than fifty (50) years.

SECTION 11. CERTIFICATES: ISSUANCE; DENIAL; LOST/DESTROYED

Authority: *Law, Sec. 26; also Secs. 2, 18 (9), and 30-33.*

11-1. Certificate of Licensure/Registration (PG); Certificate of Enrollment (GIT)

a. The Board shall issue a Certificate of Licensure as a Professional Geologist, or a Certificate of Enrollment as a Geologist-In-Training, upon payment of the required fee(s) by any applicant who, in the opinion of the Board, has satisfactorily met all the requirements of these *Rules and Regulations*. These certificates shall show the full legal name of the registrant/licensee or enrollee, the date of expiration, and registration/license/enrollee number. Certificates shall be signed by the President (Chairman) and Vice President (Vice Chairman) of the Board under the seal of the Board [*Law, Sec. 18 (2)*]. The issuance of a Certificate of Registration/Licensure or Enrollment by the Board shall be *prima facie* evidence that the person named therein is entitled to all the rights and privileges of a registered (licensed) or enrolled geologist, while the certificate remains unrevoked or unexpired. In the case of a registered/licensed Professional Geologist, the registration/licensure shall authorize the "public practice of geology" [*Law, Sec. 1-3*]. In the case of a Geologist-In-Training, the certificate shall state that the applicant has successfully passed the examination(s) required by the Board and has been enrolled as a Geologist-In-Training and shall be valid only for a period of ten (10) years, provided the enrollment fees are maintained during that time frame or until licensure as a Professional Geologist, whichever comes first.

b. All licenses/enrollments expire biennially (or annually) at such time as may be designated by the Board. All applications for renewal shall be filed with the Executive Director/Board Administrator prior to the expiration date, accompanied by the biennial (annual) renewal fee prescribed by the Board. Upon payment of the appropriate fee the Board shall issue a pocket-sized license or enrollment card (and in some states an additional certificate suitable for framing), showing full legal name, license number, and expiration date.

c. Licenses (Registrations) or Enrollments not renewed prior to the expiration date may be renewed during the six-month late renewal period by submission of the renewal application with the late renewal fee. Failure to renew a license by the end of the late renewal period shall have the same effect as revocation of the licensure. Any person whose license is revoked for failure to renew must apply for reinstatement on a form provided by the Board; reinstatement may be granted or denied at the discretion of the Board. Any person who applies for reinstatement more than one (1) year following expiration of the license may be required by the Board to take and pass the national ASBOG® Examination(s) as a condition for reinstatement.

d. Neither the failure of the Board to send nor the failure of the registrant to receive a renewal notice shall excuse the registrant from failure to timely renew a registration (license).

e. If the Board denies the issuance of a certificate of licensure or a certificate of enrollment, the Board shall notify the applicant in writing within thirty (30) calendar days following the Board's decision and shall state the reason(s) for the denial. Within thirty (30) calendar days following receipt of the notice, the applicant may make written request for a hearing, which, if granted, shall be conducted as provided in this *Law*. If no hearing is requested within thirty (30) calendar days following receipt of the notice, the Board's action shall be final.

f. A new Certificate of Licensure to replace any certificate lost, destroyed or mutilated shall be issued upon payment of a fee *[Law, Sec. 26 (7)]*.

SECTION 12. FEES

12-1. All fees shall be transmitted by money order, bank draft, check, eCheck, or credit/debit card payment made payable to the Board. No fees are refundable, except those for prescribed hearings if the Board rules in favor of the petitioner. The schedule of fees may be adjusted at the discretion of the Board. Examples of some fees set by State Boards are as follows:

a. Application Fees	
1. Geologist-in-Training	\$75.00
2. Professional Geologist	\$200.00
b. Examination Fees	
1. Fundamentals of Geology Exam	See footnote ¹
2. Practice of Geology Exam	See footnote ¹
c. Initial Certificate	\$20.00 ²
d. Renewal Fees	
1. Geologist-in-Training	\$80.00
2. Professional Geologist	\$150.00
e. Information packet for application	\$20.00 ²
f. Replacement Certificate	\$75.00 ²
g. Reactivation of Registration	\$300.00 + renewal fee
h. Examination Appeal ³	\$50.00 + actual costs charged by testing organization
i. Roster Fee	\$25.00 ²
j. Temporary Registration	\$300.00

¹Fee set, and periodically adjusted, by ASBOG®.

²Fee may be adjusted by formal Board action.

³Fee may be adjusted by formal Board action.

SECTION 13. COOPERATIVE LICENSURE (See Definitions)

Authority: *Law, Sec. 28; also Secs. 18 (4) and 23.*

13-1. An applicant who holds a valid license to practice geology in another State, Jurisdiction, Territory, or Country may be granted licensure in (State or other jurisdiction name), if criteria are met as follows:

- a. Possesses a current Professional Geologist license in good standing in another state or other jurisdiction name and provides verification of licensure in a manner deemed acceptable, or as required, by the Board;
- b. Submits a completed application form with the appropriate application fee. Transcripts or letters of reference may not be required at this time, at the discretion of the Board, if the license is in good standing;
- c. Passed the ASBOG® FG and PG examinations, or their equivalent. The Board may waive the requirement for passing the ASBOG® examinations or equivalent, if the applicant has continuously held geologist licensure in good standing for the five (5) years immediately preceding application. Such applicants may be asked to submit additional material, including transcripts or letters of reference;
- d. Meets the (State or other jurisdiction name) statutory education requirement: 1) a minimum of thirty (30) semester hours or forty-five (45) quarter hours of course work in geology including five (5) of the following required core courses or their equivalent: field geology, mineralogy, petrology *or* petrography, structural geology, stratigraphy *or* sedimentology, economic geology, hydrogeology and engineering geology; and 2) received a baccalaureate or advanced degree in geology or related geoscience (Rules and Regulations, Sec. 6-3); and
- e. Meets the (State/or Jurisdiction) statutory requirements for experience, consisting of a documented record of a minimum of four (4) to seven (7) years of progressive experience, obtained subsequent to completion of the education requirements, in geologic work of a grade and character which indicates to the Board that the applicant is qualified to assume responsible charge of such work upon licensure as a Professional Geologist (*Rules and Regulations, Sec. 6-1 b*).

**SECTION 14. USE OF THE DESIGNATION
"CERTIFIED PROFESSIONAL GEOLOGIST"**

14-1. The Board may establish standards and procedures to evaluate and recognize geologic specialties (examples: Engineering Geologist, Hydrogeologist) [*Law, Sec. 29; Rules and Regulations, Sec. 3-3 k.*]. Standards and procedures for specialty licensure may be established as deemed prudent to protect public welfare or safeguard life, health, property, and the environment, under the provisions of this Act (*Rules and Regulations, Sec. 3-2 b.*). The Board may not promulgate rules or regulations restricting the use of the terms:

- a. "Certified Professional Geologist" or "C.P.G." as used by the American Institute of Professional Geologists; or
- b. "Certified Petroleum Geologist" or "C.P.G." as used by the American Association of Petroleum Geologists; or
- c. "Certified Ground Water Professional" or "C.G.W.P." as used by the National Groundwater Association.
- d. Provided that the full name of the organization granting the certification in a., b. and c. (above) is conspicuously noted and/or stated following the use of these terms, and that these terms shall not be used in such a manner that tends to, or are likely to, create any impression with the public or any member thereof, or any agency of the governing jurisdiction that the individual is a Professional Geologist as defined by *Sec. 1-3* of these *Rules and Regulations*.

SECTION 15. USE OF SEAL AND SIGNATURE

Authority: *Law, Sec. 30; and Secs. 18 (2) and 26 (5); and Rules and Regulations, Sec. 3-3 b.*

15-1. Purpose. The purpose of the geologist's seal is to assure the user of the geological product that the work has been performed by the Professional Geologist named.

15-2. Design. The seal authorized for registrants/licensees is of the crimp (embosser) type and/or rubber stamp facsimile. The geologist shall utilize the designation "Licensed (Registered) Professional Geologist" [*Rules and Regulations, Sec. 11-1*]. Physical seals of two different sizes will be acceptable: a pocket seal (the size commercially designated as a 1-5/8-inch seal) or desk seal (commercially designated as a two-inch seal). Computer-applied seals may be of a reduced size provided that the geologist's name and number are clearly legible. The seal consists of two concentric circles: the upper portion between the two circles shall bear the phrase, "PROFESSIONAL GEOLOGIST"; and the bottom of the annular space between the two circles shall bear the inscription ["STATE (or Jurisdiction) name"]. The inner circle shall contain the name of the registrant/licensee and the license number. The registrant's/licensee's number should be preceded by the capital letters "PG" (or "LPG" or "RPG" as consistent within a particular State or Jurisdiction). All seals/stamps obtained and used by license holders must contain any given name or combination of initials except for nicknames. The assigned license (registration) number should be centered in the upper or lower area of the seal; the size of the numbers should not be larger than the letters in the registrant's/licensee's name.

15-3. Board approval of registrant's/licensee's seal.

a. After the Board notifies an applicant for licensure as a Professional Geologist that all his/her licensure requirements have been satisfied, the applicant must obtain and purchase a seal of the design stipulated in Sec. 15-2 in order to complete his/her licensure. The Board or its designee(s) will provide a list of vendors who manufacture and provide seals and stamps.

b. Within ninety (90) calendar days from the date of notification of licensure, the applicant must submit, on a form provided by the Board, an embossed impression (seal) or stamp of the seal (in permanent ink) that he or she has obtained, superimposed over an original signature. Failure to provide this impression or stamp is a violation [*Law, Sec. 32*] and these Rules and Regulations. Upon approval of the seal impression or stamp, a registrant/licensee will be sent a license. If the Board disapproves the applicant's seal, the Board shall require the applicant to obtain and purchase another seal, one that meets the Board's stated specifications. Prior to sealing any work, a registrant/licensee *must* have his/her seal approved by the Board. Failure to do so is a violation of these *Rules and Regulations*.

15-4. Ethical and/or lawful responsibility.

a. Geologists shall only seal work done by them or performed under their direct supervision. Upon sealing, geologists take full professional responsibility for that work. After-the-fact ratification by the sealing of documents relating to work that was not performed by the registrant/licensee, but by an unlicensed subordinate or other unlicensed individual, without thorough technical review throughout the project by that licensed Professional Geologist is prohibited [*Law, Secs. 31 (10), (19) and (24); Secs. 32 and 33*].

- b. It shall be construed as misconduct and subject to disciplinary actions that may be taken by the Board to knowingly sign or seal any geological document or product if its use or implementation may endanger the health, safety, property or welfare of the public [*Law, Sec. 31 (14)*].
- c. It shall be misconduct or an unlawful act for a license holder whose license has been revoked, suspended, or has expired, to sign or affix a seal to *any* document or product [*Law, Sec. 31 (5)*].
- d. Alteration of a sealed document without proper notification to the responsible geologist is misconduct or an unlawful act [*Law, Sec. 31 (3)*]. Proper notification shall be documented by written communication by the person altering the sealed document, and must be delivered by traceable means to the one who originally sealed the document.

15-5. Seal in electronic format.

- a. Seals obtained and used by license holders shall be compatible with those being placed as a computer-generated representation in a computer file containing the geologic work
 - 1. Electronically conveyed geologic work that would require a seal [*Regulation 15-8 (b)*] must contain an electronic seal and electronic signature if hard copies with the registrant's or licensee's stamped (inked) or embossed seal and original signature will not be submitted. Such seals should conform to the design requirements set forth in *Regulation 15-2*.
 - 2. Geologic work transmitted in an electronic format that contains a computer-generated seal shall be accompanied by the following text or similar wording: "The seal appearing on this document was authorized by (Example: Leslie H. Doe, P. G. 0112) on (date).", unless accompanied by an electronic signature as described in this section. A license holder may use a computer-generated representation of his/her seal on electronically conveyed work; however, the final hard copy documents of such geological work must contain an original signature of the license holder(s), and date of the document(s), and must be accompanied by an electronic signature as described herein.
 - 3. A scanned image of an original signature shall not be used in lieu of an original signature or electronic signature. An electronic signature is a digital authentication attached to, or logically associated with, an electronic document and shall carry the same weight, authority, and effects as an original signature. The electronic signature, which can be generated by using either public key infrastructure or signature dynamics technology, must be as follows:
 - (a) unique to the person using it,
 - (b) capable of verification,
 - (c) under the sole control of the person using it, and
 - (d) linked to a document in such a manner that the electronic signature is invalidated if any data in the document are changed and/or deleted.

15-6. Reproduced seal and signature. Preprinting of blank forms with a geologist's seal, or the use of decal or other seal replicas is prohibited. Signature reproductions, including but not limited to, rubber stamps or computer-generated signatures, shall not be used in lieu of the geologist's actual signature.

15-7. Security. Geologists shall take reasonable steps to ensure the security of their physical or computer-generated seals at all times. In the event of loss of a seal, the geologist will immediately give written notification of the facts concerning the loss to the Executive Director/Board Administrator.

15-8. Professional protocol.

a. Geologists shall affix an unobscured seal, original signature, and date of signature to the originals of all documents containing the final version of any geological work as outlined in *Regulation 15-8 (b)* before such work is released from their control. Preliminary documents released from their control shall identify the purpose of the document, the geologist(s) of record and the license number(s), and the release date by placing the following text or similar wording instead of a seal: "This document is released for the purpose of (examples) interim review, mark-up, or drafting under the authority of [(examples: Leslie H. Doe, P. G. 0112) on (date). It shall not to be used for any other purposes (examples)such as construction, bidding, permitting or related activities]."

b. The geologist shall sign, seal and date the original title sheet of bound geologic reports, specifications, details, calculations, estimates or drawings/diagrams/maps, and each original sheet of plans or drawings regardless of size or binding if the plans or drawings are intended to be removed from the report. All other geological work, including, but not limited to, research reports, opinions, recommendations, evaluations, addenda, documents produced for litigation, and geoscience software shall bear the geologist's printed name, date, signature and the designation "P.G." or other terms allowed, authorized or specified in the *Law*. A seal must be applied to such work if required by the entity receiving the work; otherwise, it may be added at the geologist's discretion. Electronic correspondence of this type shall include an electronic signature as described in Section 15-5 a. 3., above, or be followed by a hard copy containing the geologist's name, date, signature and the designation "P.G." or other terms allowed, authorized, or specified [*Law, Sec.30; Sec. 26 (5)*].

c. Work performed by more than one geologist shall be sealed in a manner such that all geology can be attributed to the responsible geologist or geologists. When sealing plans or documents on which two or more geologists have worked, the seal of each geologist shall be placed on the plan or document with a notation describing the work done under each geologist's responsible charge.

15-9. Licensed employees of the State or other jurisdiction name, its political subdivisions, or other public entities are responsible for sealing their original geologic work; however, such licensed employees engaged in review and evaluation for compliance with applicable law or regulation of geologic work submitted by others, or in the preparation of general planning documents, a proposal for decision in a contested case or any similar position statement resulting from a compliance review, need not seal the review reports, planning documents, proposals for decision, or position statements.

15-10. When a geologist elects to use published standards or general guideline specifications, those items shall be clearly labeled as such, shall bear the identity of the publishing entity, and shall be individually sealed by the geologist, or specified on an integral design/title/contents sheet that bears the geologist's seal, signature, and date with a statement authorizing its use.

15-11. If a replacement or additional seal is required, the registrant/licensee shall submit an impression (seal) or stamp of the new seal to the Board for its approval [*Regulation 15-3*]. The impression or stamp of the new seal shall be accompanied by a statement by the registrant/licensee made under oath, stipulating the reason for the seal's duplication.

15-12. If a registrant/licensee changes his/her name, the registrant/licensee shall notify the Board in writing. This notification should be made within thirty (30) calendar days of the name change and shall include a statement explaining the reason for the name change. The statement shall also include certified copies of the legal documents authorizing such changes and/or modifications. Within ninety (90) calendar days after the registrant's/licensee's name change, the registrant/licensee shall obtain a new seal and submit an impression or stamp of the new seal to the Board for its approval [*Regulation 15-3*].

SECTION 16. CODE OF ETHICS

Authority: Primarily, *Law [Sec. 25-1; also, Secs. 18 (11), 32, 34 and 37(3)]*; and *Rules and Regulations [Secs. 3-3L and 6-4]*

- 16-1. Professional Conduct. Each Professional Geologist (P. G.) shall be guided by the highest standards of honesty, integrity, impartiality, and personal conduct.
- 16-2. Public Interest. Each Professional Geologist (P. G.)
- a. shall uphold the public health, safety, and welfare in the performance of professional work and activities; and
 - b. is encouraged to promote public awareness of the effects of geology and geological processes that may impact and impinge on the quality of life.
- 16-3. Legal Compliance. Each Professional Geologist (P. G.) shall:
- a. observe and comply with the requirements of all applicable common law;
 - b. not knowingly participate in any illegal activities or knowingly permit the use or publication of a P. G.'s reports, maps or other documents for illegal purposes; and
 - c. not accept payment, gift or other valuable consideration that would appear to influence a decision made on behalf of the public by a P. G. acting in a position of public trust; and
 - d. not subscribe to, or endorse, a decision or action of an employer, client or colleague that violates any law or regulation or poses an imminent threat to the public health, safety, or welfare, and shall advise against such action(s). If the employer, client, or colleague fails to make a reasonable effort to notify the appropriate public officials, then the P. G. should do so; and
 - e. shall not aid any person in the unauthorized practice of geology.
- 16-4. Integrity. Each Professional Geologist (P. G.) shall:
- a. be accurate and truthful in all communications; and
 - b. not knowingly engage in false or deceptive advertising; or make false, misleading, or deceptive misrepresentations or claims concerning the profession or concerning the P.G.'s professional qualifications or abilities or those of other geologists; and
 - c. avoid making sensational, exaggerated, or unwarranted statements that may mislead or deceive members of the public or any public body; and
 - d. when acting in a position of public trust, shall exercise authority, impartially and must not seek to use that authority for personal profit or to secure any competitive advantage; and
 - e. when serving as an expert witness or accepted to be an expert in legal or administrative proceedings, shall express an opinion only when having adequate knowledge of the facts of the issues and a background of technical competence on the subject. Statements and opinions must be based on an honest conviction of the accuracy and propriety of the testimony.

- 16-5. Conflicts of Interest. Each Professional Geologist (P. G.) shall:
- a. disclose any actual or potential conflicts of interest that may affect the P. G.'s ability to serve an employer or client; and
 - b. shall disclose to a prospective employer or client the existence of any owned or controlled natural resource, or other interest that may, either directly or indirectly, have a pertinent bearing on such employment; and/or
 - c. disclose any interest in property beneficial to the geologist, on which the geologist is reporting, prior to accepting any such assignment.
- 16-6. Obligations to Employers and Clients. Each Professional Geologist (P. G.):
- a. shall protect, to the fullest possible extent, the interest of an employer or client so far as is consistent with the public health, safety, and welfare, and the P. G.'s legal, professional and ethical obligations; and
 - b. who has made an investigation for an employer or client shall not seek to profit economically from the information gained or resources used without a good faith effort to notify the employer or client of the P. G.'s intentions. Natural resource prospects and other original geologic concepts and information, developed by the P. G. and brought to the employer or client, shall be freely useable by the P. G. at any time, absent a contractual agreement to the contrary; and
 - c. who finds that obligations to an employer or client cause serious conflict with professional and ethical standards must recommend that the objectionable conditions be corrected.
- 16-7. Professional and Ethical Obligations. Each Professional Geologist (P. G.) shall:
- a. serve employers and clients competently within the P. G.'s overall professional and ethical obligations; and
 - b. perform professional work or activities or issue professional advice that is within the scope of the education and experience of the P. G. or the P. G.'s professional associates, consultants, or employees and must advise the employer or client if any professional advice is outside the P. G.'s personal expertise; and
 - c. not give a professional opinion or submit a report without being informed as might be reasonably expected, considering the purpose for which the opinion or report is requested; and
 - d. report all assumptions on which the results of a report or opinion are based; and
 - e. substantiate any statements contained in opinions or reports; and
 - f. not knowingly or purposefully misrepresent or omit relevant data, or fail to mention a lack of data that might affect the results of an opinion or report; and
 - g. engage, or advise an employer or client to engage, and cooperate with other experts and specialists whenever the employer's or client's interest would be best served.

16-8. Professional Courtesy. Each Professional Geologist (P. G.) shall:

- a. respect the rights, interests, and contributions of professional colleagues and must be accurate and truthful in all communications with others regarding professional colleagues; and
- b. give recognition and credit due for work done by others in the course of a professional assignment; and must not knowingly accept credit due another; and
- c. provide statements regarding geologic opinions, restricting such statements to those based on logical and scientific principles; statements must be made in a respectful and professional manner.

16-9. Continuing Education. Each Professional Geologist (P. G.) should strive to improve professional knowledge and skills and work toward the advancement of geological education, research, training, and practice. (See *Sec. 17, Continuing Education*.)

16-10. Equal Opportunity. Each Professional Geologist (P. G.) shall not discriminate against any person on the basis of race, creed, gender, age, disability, sexual orientation or national origin when engaged in services to the public or as required by law.

16-11. Obligation to Report Violations. Each Professional Geologist (P. G.) has the individual responsibility to abide by the Code of Ethics presented in this rule. Any complaints brought to the attention of the Board regarding a violation of this rule by a P. G. must be substantiated in writing with evidence of the violation. Further, any such complaint brought forth by a P.G. shall be protected from civil liability pursuant to the enabling Act. The Board is obligated to evaluate and act on disciplinary actions regarding this Code of Ethics.

SECTION 17. CONTINUING EDUCATION

Authority. *Law [Secs. 18 (10) and 18 (9)]; Rules and Regulations [Sec. 16- 9].*

17-1. Content and Purpose. The Board may require continuing education as a condition of license renewal. Continuing education must consist of learning experiences which enhance and expand the geological skills, knowledge, and abilities of practicing professionals to remain current and render competent practice services to the public. Practitioners may pursue scientific, technical, nontechnical, regulatory, ethical, and business practice needs related to geology for a well-rounded education, provided the education directly benefits the health, safety, or welfare of the public.

17-2. Minimum Requirements. A renewal application shall not be accepted for filing unless the registrant/licensee indicates on the renewal application, and under penalty for falsification, that he/she:

- a. has completed the minimum required contact hours of approved continuing education required by Sec. 17-2. b.; and
- b. has obtained at least twenty-four (24) contact hours of continuing education activities during the biennial renewal period as a condition of license renewal. Carryover from the previous biennium permitted, not to exceed 12 contact hours.

17-3. Requirements for New Registrants/licensees. Continuing education shall be prorated for new registrants/licensees in the following manner:

- a. If, at the time of renewal, a registrant/licensee has been licensed for less than one year, no continuing education is required;
- b. If he/she has been licensed for more than one year, but less than two years, twelve (12) of the twenty-four (24) contact hours will be required;
- c. If he/she has been licensed for two years or more, the full twenty-four (24) contact hours are required.

17-4. Reciprocity Registrants/licensees. Requirements for reciprocity registrants/licensees who are residents of jurisdictions other than (State or other jurisdiction name) shall meet the continuing education or equivalent requirements of their resident jurisdiction. If registrants/licensees reside in a jurisdiction that has no continuing education requirements, the resident shall meet the requirements of this State or other jurisdiction name when applying for licensure.

17-5. Reinstatement. In addition to the requirements set forth in Sections 17-3 and 17-6, an applicant for reinstatement shall obtain twelve (12) additional contact hours of continuing education activity for a total of 36. Additional hours shall be for the current reinstatement period only; none may be carried over into the registrant's/licensee's subsequent biennial renewal period.

17-6. Continuing Education Criteria. Continuing education activities shall meet all of the following criteria:

- a. Continuing education activities shall be relevant to the practice of geology or *no credit shall be awarded*. Acceptable continuing education activities may include scientific, technical, ethical, or relevant managerial content.
- b. The content of each activity shall be well organized and presented in a sequential manner.
- c. The activity shall be led by persons who are qualified by education or experience; and
- d. There is a provision for individual participant registration which shall include information required for record keeping and reporting.

17-7. Continuing Education Activity Hours. Hours for continuing education activities shall be awarded as follows:

- a. Courses sponsored by a member society of the American Geological Institute (AGI) will be approved automatically. All other activities must have one-time prior approval by the licensing (registration) Board.
- b. A maximum of two (2) continuing education contact hours per year shall apply to serving on a state or other jurisdiction name or national board of licensure;
- c. Courses/programs that award one or more college semester credit hours, with a passing grade where grades are issued, shall equal 15 continuing education hours per credit hour, based on course credit established by the college or university;
- d. Courses/programs that award one or more college quarter hours, with passing grade where grades are issued, shall equal 10 continuing education hours per credit hour based on course credit established by the college or university;
- e. Courses/programs that award one or more continuing education units by the course sponsor, with a passing grade where grades are issued, shall equal 10 continuing education hours per Continuing Education Unit (CEU);
- f. One hour of credit, or Professional Development Hour (PDH) -- defined as a minimum of 50 minutes of contact per hour of time -- shall be awarded for each contact hour of continuing education in course work, seminars, or professional presentations made at meetings, conventions, or conferences for each hour of attendance;
- g. Field trips organized and run by professional and/or technical societies or in conjunction with meetings, conventions, or conferences shall be awarded one PDH for each hour of duration, up to 8 PDHs per day;
- h. Teaching or instructing qualifying courses or seminars or making presentations at technical meetings shall earn PDHs at a rate twice that of the participants. Teaching credit shall be valid for teaching a course or seminar for the first time only. Teaching credit shall not apply to full-time faculty teaching courses that are part of their normal teaching load;

i. Each professional journal article, published paper, published geological map, or published geology textbook shall equal 16 PDHs;

j. Completing self-study college- or non-college-sponsored, geology-related courses, presented by correspondence, Internet, television, video, or audio, *ending with examination or other verification processes*; these activities may carry a varying number of PDHs.

k. Providing professional service to the public on boards, commissions, and committees such as planning commissions, building code advisory boards, urban renewal boards, or non-work-related volunteer service which draws upon the registrant's/licensee's or certificate holder's professional geologic expertise. A maximum of ten (10) PDHs per biennium may be applied from this source;

l. PDHs shall not be awarded for any repeat activity attended or completed.

17-8. Records and Record-keeping. License holders must adhere to requirements as follows:

a. The registrant/licensee must submit continuing education certification on a log form provided by the Board, and a list of each activity, date, and contact hours claimed that satisfy the continuing education requirement for that renewal period. A percentage of the registrants/licensees will be randomly audited each biennium.

b. Continuing education records for each registrant/licensee must be maintained for a period of four (4) years by the license holder. Such records are subject to audit by the Board or its authorized representative as follows:

(1) Copies must be furnished, if requested, to the Board or its authorized representative for audit-verification purposes;

(2) If, upon auditing a license holder, the Board finds that the activities cited do not fall within the bounds of educational, technical, ethical, or professional management activities related to the practice of geology or geoscience, or if insufficient PDHs are determined, the Board may require the registrant/licensee to earn additional PDHs as needed to fulfill the minimum requirements.

c. The license holder is responsible for maintaining records to be used to support credits claimed. Records required include, but are not limited to:

(1) A log, on a form provided by the Board, showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDHs earned; and

(2) Attendance verification records in the form of completion certificates, receipts, attendance roster, or other documents supporting evidence of attendance.

17-9. Exemptions. A license holder may be exempt from the continuing education requirements for one of the following reasons:

a. New license holders, licensed by examination, shall be exempt for the first renewal period;

b. A registrant/licensee serving on active duty and deployed outside the United States, its possessions and territories, in or for military service of the United States, for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the continuing education contact hours required during that biennium.

c. A license holder employed outside the United States, its possessions and territories, actively engaged in the practice of geology for a period of time exceeding three hundred (300) consecutive days in a year shall be exempt from obtaining the continuing education hours required during that biennium.

d. Registrants/licensees experiencing long-term physical disability or illness may be exempt. Supporting documentation must be furnished to the Board; a decision to accept or reject the documentation shall be at the sole discretion of the Board.

17-10. Waiver of Continuing Education Deadline. A registrant/licensee may request waiver of continuing education deadlines provided that a petition to that effect is filed at least thirty (30) calendar days before the expiration of the biennial continuing education period in question, or demonstrate that late filing is justified by a showing of good cause. Good cause shall include accident, illness or other extenuating circumstances beyond the control of the registrant/licensee which actually prevent the registrant/licensee from satisfying the continuing education requirements. No waiver petition shall be granted which does not propose a specific timetable for completing specific activities that will eliminate the petitioner's continuing education deficiency.

17-11. Noncompliance. If the Board rejects continuing education hours reported by a registrant/licensee or certificate holder in an amount sufficient to reduce the number of accepted continuing education hours below the required minimum number, the registrant/licensee or certificate holder must be notified in writing of the Board's rejection of the hours. The registrant/licensee or certificate holder has one hundred eighty (180) days after notification to substantiate the validity of the rejected hours or to earn other qualifying hours to meet the minimum requirement. The Board's rejection of any continuing education submitted during this 180-day period does not extend or expand the 180-day period. If the Board does not reinstate a sufficient number of the rejected continuing education credit hours to meet the required minimum number of continuing education hours, or the registrant/licensee or certificate holder does not complete or document the completion of other qualifying continuing education hours to meet the required minimum number of continuing education hours within the specified period of time, *the individual's license or certificate shall be suspended*. Continuing education hours earned within the 180-day cure period and applied to current renewal shall not be applied to the requirements for the following biennial period.

NOTE TO USERS

Sections 18 through 23 relate to **Discipline**, i.e., Disciplinary Actions and Proceedings (both informal and formal), Sanctions, Appeals, and Penalties for non-registrants/licensees that the Board may invoke upon registrant/licensees and non-registrants/licensees alike. Reference to other ASBOG® Member Board rules and regulations is highly recommended due to the many variations among State jurisdictions in their approach to this complex subject.

SECTION 18. COMPLAINTS, MISCONDUCT AND GROUNDS FOR DISCIPLINARY ACTIONS/VIOLATIONS

Authority: *Law*, [*Secs. 31 and 18 (12)*; also, *Secs. 1, 2, 3 (2), 9, 13, 18 (16), 18 (21), 19, and 33*]; and *Rules and Regulations*, [*Secs. 3-2.f. and 4-1*]. **ASBOG® Model Law, Sec. 31, lists 25 specific violations. This Regulation is a companion to Sec. 31 of the Law.)**

18-1. Complaints Against a Registrant/licensee or Geologist-In-Training (Trainee). (See *Rules and Regulations, Sec. 25, "Penalties Related to Non-Registrants/licensees"*). All complaints against registrants/licensees or Geologists-In-Training (Trainees) shall be filed with the Board in writing and shall contain:

- a. Name and address of the registrant/licensee or Geologist-In-Training (Trainee);
- b. Name, address and telephone number of the complainant;
- c. Nature of the alleged violation;
- d. A short and concise statement of facts relating to the alleged violation;
- e. A listing of the sections of the *Law* and/or *Rules and Regulations* that were violated, and the relevant date(s);
- f. Signature of the complainant and date signed.

18-2. Misconduct. A Professional Geologist who is found guilty by the Board of gross negligence, incompetency or misconduct in the practice of geology or of a violation the *Code of Ethics (Rules and Regulations, Sec. 16)* is subject to disciplinary action (*Law, Secs. 31 through 33*). Misconduct in the practice of geology includes any of the following:

- a. being convicted of a criminal offense such as extortion, bribery or fraud, or entry of a plea of *nolo contendere* to a charge thereof for conduct relating to the practice of geology;
- b. being unable to practice geology with reasonable skill and safety by reason of drunkenness, use of controlled substances, chemicals or other types of inhibiting materials, or as a result of a mental or physical incapacity which prevents the practice of geology;
- c. failing to exercise supervision over a person who is authorized by the employer to practice geology only under the supervision of a Professional Geologist;
- d. delegating responsible charge to an individual who the Professional Geologist knows, or has reason to suspect, is not qualified by training or experience to personally and independently engage in and be entrusted with the work involved in the practice of geology;
- e. being convicted of a felony in a State or other jurisdiction name or Federal court, or being convicted of a misdemeanor in the practice of geology. As used in this paragraph, the term "convicted" includes a finding or verdict of guilt, an admission of guilt, or a plea of *nolo contendere*;
- f. making misleading, deceptive, untrue or fraudulent representations in the practice of geology;

- g. practicing fraud or deceit in obtaining a license to practice geology;
- h. submitting a false or deceptive biennial (or annual) registration (license) and/or renewal request form to the Board;
- i. as a breach of ethics, reviewing on behalf of a public entity or an agency of government, plans on which the individual performing the review, or a member or employee of the individual's firm, has participated in any manner, including an advisory capacity;
- j. having a license to practice geology suspended or revoked or having other disciplinary action taken for conduct relating to the practice of geology, by the proper licensing authority of another state, territory or country.

18-3. Grounds for Disciplinary Action. The Board shall consider each complaint to determine if further investigation of the matter is warranted. If further investigation is deemed necessary, the Board shall create an investigative committee, which may consist of the Executive Director/Board Administrator, a Board member(s) or a hired investigator to assist a representative of the Attorney General's Office or the Board's legal counsel (approved by the AG).

18-4. Conclusion of Investigation. Upon completion of the investigation, the investigative committee may:

- a. Prepare and file a formal complaint and notice of hearing with the Board, assigning the matter to a hearing;
- b. Recommend to the Board that a reprimand be given;
- c. Recommend to the Board that the complaint be dismissed.

18-5. Resolution of Complaint. The Board may resolve a complaint at any time by implementing any of the following:

- a. Sending a written letter of warning;
- b. Accepting a voluntary surrender of a license or certification;
- c. Accepting conditional terms for settlement;
- d. Dispensing with it in an informal manner;
- e. Dismissal of the complaint; or
- f. Pursuing other appropriate actions

SECTION 19. DISCIPLINARY PROCEEDINGS – INFORMAL

Authority: Primarily, *Law*, [Secs. 32, 18 (12), 31, 33, and 34; also, Secs. 1, 2, 3 (2), 9(2), 9 (3), 18 (1), 18 (6), 18 (11), 19, 20 (1) (e), 20 (1) (i), 20 (4), 26 (3), 26 (5), 26 (6), 27 (4), 28 (2) (c), 29 (2), 30, 33, 34, and 36]; *Rules and Regulations*, [Secs. 3-2f and 4-1].

19-1. Informal Process. The investigative committee (*Rules and Regulations 18-2 and 18-4 d.*) or an independent investigator shall make the determination and/or a recommendation as to whether or not:

- a. the charges should be pursued;
- b. an informal process or mediation should be used;
- c. further investigation is required;
- d. probable cause exists for taking further action, or for issuing a summons and written charges to initiate the formal process; or
- e. action against the person brought in the name of the Board, or brought before the Board in the name of the complainant vs. the respondent. The Board may select an informal process in lieu of, or as a prerequisite to, entering into a formal legal process. Under this option, the Board would generally follow these steps after receiving a written complaint that an individual or organization has violated the *Professional Geologists Licensure Law* (or other appropriate State title).

19-2. Implementation of the Informal Process. The Board will appoint a *designee* to oversee the implementation of the informal process. General qualifications for a designee are:

- a. a Professional Geologist licensed to practice in (State or other jurisdiction name); and
- b. familiar with the *Professional Geologists Licensure Law* (or appropriate State or other jurisdiction title); and the *Rules and Regulations* of the Board; and
- c. afforded immunity from any legal proceedings that may result from actions by the defendant (respondent).

19-3. Informal Meeting. The designee shall notify any or all of the parties involved in the complaint, requesting that they attend a meeting to informally discuss matters related to the complaint. The subject meeting may be in person or via a teleconference or similar electronic media. At the scheduled meeting, the designee shall clearly state to the parties that the meeting is informal and that no individuals or organizations will be giving up their due process rights by participating in the informal process. The designee may request that parties bring materials, documents, or exhibits that might be useful in facilitating the informal discussion.

19-4. Resolution and Completion. If the designee and the parties can reach a mutual understanding that any alleged violations of the *Law* (or Act), as stated in the complaint can be corrected through education or other reasonable means, and applied properly in future activities of the parties, then the designee may consider the complaint to be resolved. Under this process the Board is expecting the party or parties named in the complaint to take their own corrective actions to establish compliance with the *Law*. It shall be the

responsibility of the party(ies) to provide written evidence of compliance to the designee, or Board's legal counsel. Upon completion of the process, the designee shall make recommendations in writing to the Board. The Board may accept, reject, or modify the designee's recommendations.

19-5. Final Board Action. The Board retains the authority to separate items within a complaint into those that can be resolved with the informal process and those of a more serious nature which must be resolved under a formal legal process. Matters resolved through the informal process will be so acknowledged, in writing, to all parties who participated in the process. Any Board action under this section which is not informally disposed by agreement or consent order, will be considered a *contested case* and will be handled in accordance with applicable law and the Board's *Rules and Regulations*.

SECTION 20. DISCIPLINARY PROCEEDINGS – FORMAL

Authority: Primarily, *Law* [*Secs. 32, 18 (12), 31, 33, and 34*; also, *Secs. 1, 2, 3 (2), 9 (2), 9 (3), 18 (1), 18 (6), 18 (11), 19, 20 (1) (i), 20 (4), 26 (3), 26 (5), 26 (6), 27 (4), 28 (2) (c), 29 (2), 30, 33, 34. and 36*]; and *Rules and Regulations* [*Secs. 3-2f and 4-1*]. See *Notes, 20a*.

20-1. Formal Disciplinary Action. The results of an investigation must be presented to the Board. If, from these results, it appears that a violation has occurred or that a registrant/licensee has become unfit to practice the profession, the Board, in accordance with the Administrative Procedures Act, may take disciplinary action as authorized by *Law, Secs. 31 through 33*. No disciplinary action may be taken unless the matter is presented to and voted on by the Board. The Board may designate a hearing officer or hearing panel to conduct hearings or take other action as may be necessary under this section. For the purpose of a proceeding under this section, the Board may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records on behalf of the Board or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions posed by the Board or its hearing officer or panel, the Board may apply to an administrative law judge for an order requiring the person (registrant/licensee or non-registrant/licensee) to comply with the subpoena.

20-2. Equitable Relief; Immunity. When the Board has reason to believe that a person is violating, or intends to violate, a provision of the *Law* or these *Rules and Regulations*, in addition to all other remedies, it may order the person(s) immediately to cease and desist from engaging in the conduct. If the person is practicing geology without being licensed under the *Law* and these *Rules and Regulations*, is violating a Board order, any provision of these *Rules and Regulations*, or a regulation promulgated herein, the Board also may apply, in accordance with the appropriate jurisdictional entity, for a *temporary restraining order*. No Board Member or the Executive Director/Board Administrator or other employee of the Board shall be held liable for damages resulting from the issuance of a wrongful temporary restraining order. The Board may seek from an administrative law judge other equitable relief to enjoin the violation or intended violation of the *Law* or these *Rules and Regulations* or any regulation promulgated thereunder.

20-3. Additional Grounds for Disciplinary Action. (Some overlap and/or duplication occurs with *Model Law, Sec. 31* and with *Rules and Regulations, Sec. 18-2*. Also see *Notes, 20b*.) In addition to other grounds contained in the *Law* and the *Rules and Regulations*, the Board, in determining misconduct on the part of the registrant/licensee, may cancel, fine, suspend, revoke, or restrict the authorization to practice of an individual who:

- a. used a false, fraudulent, or forged statement or document, or committed a fraudulent, deceitful, or dishonest act, or omitted a material fact in obtaining licensure under these *Rules and Regulations*;
- b. has had a license to practice a regulated profession or occupation in another State or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;
- c. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate these *Rules and Regulations*, or a regulation promulgated under these *Rules and Regulations*;
- d. has intentionally used a fraudulent statement in a document connected with the practice of geology;
- e. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

- f. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;
- g. lacks the professional or ethical competence to practice geology;
- h. has been convicted of or has pled guilty to or *nolo contendere* to a felony or a crime involving drugs or moral turpitude;
- i. has practiced geology while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice geology (See Delaware Board of Registration of Geologists, 3600-8.0, Voluntary Treatment Option.);
- j. has sustained a physical or mental disability which renders further practice dangerous to the public;
- k. violates a provision of, or a regulation promulgated under, these *Rules and Regulations*; or
- l. violates any part of the *Code of Ethics (Sec. 16)*.

20-4. Term of Board Jurisdiction. The Board has jurisdiction over the actions committed or omitted by current and former registrants/licensees during the entire period of licensure. The Board has jurisdiction to act on any matter which arises during the practice authorization period.

20-5. Hearing Procedures (*See Notes, 20c.*)

Subsection 1. Administrative Procedures Act.

Hearings shall be conducted pursuant to the provisions of the (State or other jurisdiction name) Administrative Procedures Act, or pursuant to the Board's adopted procedures described within this Section (20-5).

Subsection 2. Service of Notice and Formal Complaint.

Proper Notice and Complaint shall be served by mail at least thirty (30) calendar days prior to the date set for hearing. It shall be sent by certified or registered mail with return receipt thereof to the last known no member of the Board assigned to make a decision or to make findings of fact or conclusions of law in a contested case shall communicate, directly or indirectly, regarding any issue of fact or law in the case, with any party or his/her representative or with any member of the Board or employee of the Board involved in the investigation or consideration of that case or with any party or complainant or his/her representative or agent, except on notice and opportunity for all parties to participate.

Subsection 3. No Ex Parte Communications.

After notice of the opportunity for hearing, no member of the Board assigned to make a decision or to make findings of fact or conclusions of law in a contested case shall communicate, directly or indirectly, regarding any issue of fact or law in the case, with any party or his/her representative or with any member of the Board or employee of the Board involved in the investigation or consideration of that case or with any party or complainant or his/her representative or agent, except on notice and opportunity for all parties to participate.

Subsection 4. Docket.

A contested case shall be assigned a number when a complaint is filed with the Board. A separate file shall be established for each docketed case, in which shall be placed all papers, pleadings, documents, transcripts, evidence, and exhibits.

Subsection 5. Answer or Appearance.

The registrant/licensee or Geologist-In-Training (Trainee) shall file an Answer or Notice of Appearance, which shall be received by the Board at least three (3) working days prior to the date set for hearing in the matter.

Subsection 6. Default in Registrant/licensee or Geologist-In-Training (Trainee) Answering or Appearing.

In the event of the failure to answer or otherwise appear within the time allowed, a default judgment shall be entered and the allegations as set forth in the Notice and Complaint shall be taken as true and an Order of the Board entered accordingly.

Subsection 7. Discovery.

In all contested cases coming before the Board, the taking of depositions and discovery shall be available to the parties.

Subsection 8. Subpoenas.

Subpoenas for appearance and to produce testimony, books, papers, documents, or exhibits may be issued by the Board or hearing officer on behalf of any party to the contested case.

Subsection 9. Contested Case Hearing.

All issues and matters set forth in the Notice and Complaint shall be presented to the Board. A registrant/licensee or Geologist-In-Training (Trainee) may be represented by an attorney licensed to practice law in this State or other jurisdiction name or associated with an attorney licensed to practice law in this State or other jurisdiction name.

Subsection 10. Hearing Officer.

The Board may employ and retain a hearing officer to assist and advise the Board in the conduct of a hearing and the preparation of recommended findings of fact, conclusions of law, and the order of hearing events.

Subsection 11. Order of Procedure at Hearing

Hearings should be conducted with the following order of procedure:

- a. The Board or hearing officer shall announce that the hearing is convened upon the call of the docket number and title of the matter and case to be heard, and thereupon the Board or hearing officer shall incorporate all pleadings into the record and shall note for the record all subpoenas issued and all appearances of record;
- b. Opening statements may be made;
- c. All persons testifying at the hearing shall be administered the standard oath;
- d. The party bearing the burden of proof shall thereupon proceed to present its evidence. Witnesses may be cross-examined and redirect examination may be permitted;
- e. The State or other jurisdiction name and registrant's/licensee's or Geologist-In-Training (Trainee's) evidence shall be heard in the same manner. Each shall have the opportunity of cross-examination and redirect examination may be permitted;

f. Closing statements, at the conclusion of the presentation of evidence, may be made by the parties or attorneys. A rebuttal statement may be allowed. The time for oral argument may be limited;

g. After all proceedings have been concluded, the Board or hearing officer shall excuse all witnesses and declare the hearing closed. Any party may submit written briefs of law to the Board or hearing officer. The Board may take the case under advisement. The decision of the Board shall be announced within due and proper time following consideration of all matters presented at the hearing and exceptions filed by any party to a hearing officer's recommended decision; and

h. The Board and hearing officer shall retain the right and opportunity to examine any witness upon the conclusion of all testimony offered by a particular witness. (*Also see Notes, 20d.*)

Subsection 12. Rules of Civil Procedure to Apply.

The rules of practice and procedure contained in the (State or other jurisdiction name) Rules of Civil Procedure [or applicable Rules for (State or other jurisdiction name)] shall apply insofar as they are applicable and not inconsistent with the matters before the Board and applicable to the rules and orders promulgated by the Board.

Subsection 13. Attorneys.

The filing of an answer or other appearance by an attorney constitutes an appearance for the party for whom the pleading is filed. The Board and all parties shall be notified in writing of any withdrawal. Any registrant/licensee, Geologist-In-Training (Trainee), or non-registrant/licensee may appear in his or her own behalf, but shall not be relieved of abiding by all procedural rules established for the hearing.

Subsection 14. Attorney General to be Present.

In all hearings held upon formal action brought before the Board, a representative of the Office of the Attorney General of (State or other jurisdiction name) shall appear on behalf of the State or other jurisdiction name, and shall present all evidence, testimony, and legal authority in support of the Notice and Complaint to be considered by the Board.

SECTION 21. DISCIPLINARY PROCEEDINGS – SANCTIONS

Authority: Primarily, *Law*, [Secs. 32 and 18 (12); also, Secs. 1, 3, 18 (1), 18 (11), 18 (13), 18 (14), 19, 26, 31, 33, 34, 36]; and *Rules and Regulations*, [Secs. 18, 19 and 20}.

"Sanction" is defined in *Rules and Regulations*, Sec. 1-3 herein. Penalties specified in the *Law*, Sec. 32 (6) are also options and their meaning and intent will override in case of duplication or overlap from this *Regulation*.)

21-1. Factors Leading to Sanctions. The investigative committee [*Rules and Regulations*, Sec. 18-3] and the participants in an informal conference may arrive at a greater or lesser sanction than suggested in these *Rules and Regulations* provided that said sanction shall not be formulated as being arbitrary and/or capricious on the behalf of the Board. Allegations and disciplinary actions will be set forth in the final Board order and the severity of the disciplinary action will be based on, but not limited to, nine factors listed as follows:

- a. the seriousness of the violation(s);
- b. the number of prior disciplinary actions taken against the respondent;
- c. the severity of penalty necessary to deter future violations;
- d. efforts, or resistance, to correct the violation(s);
- e. any hazard to the health, safety, property or welfare of the public;
- f. any actual damage, physical or otherwise, caused by the violation(s);
- g. any economic benefit gained through the violation(s);
- h. economic harm to property or the environment caused by the violation(s); and
- i. any other matters impacting justice and public welfare.

21-2. Board's Authority to Sanction. The Board may deny an authorization to practice (a license) to an applicant who has committed an act, or acts, that would be grounds for disciplinary action under this *Law* or these accompanying *Rules and Regulations*. The Board shall deny a license to practice to an applicant who has failed to demonstrate the qualifications or standards for licensure contained in the *Law*. The applicant shall demonstrate to the satisfaction of the Board that the applicant meets all the requirements for the issuance of a license. The Board shall impose disciplinary sanctions only:

- a. after prior notice and an opportunity to be heard; or,
- b. pursuant to a mutually agreed-upon settlement or consent decree.

When the Board receives notice that a registrant/licensee has been subjected to disciplinary action related to professional conduct by the licensing authority of another jurisdiction, where the license was not reinstated, the Board shall issue an order directing the registrant/licensee to demonstrate why reciprocal discipline should not be imposed in (State or other jurisdiction name).

21-3. Possible Sanctions. The Board has several options, concerning sanctions, as follows:

a. Upon a determination by the Board that one or more of the grounds for discipline exists, in addition to the actions the Board is authorized to take pursuant to its respective licensing act, the Board may:

1. issue a public reprimand;
2. impose a fine not to exceed (_____) dollars unless otherwise specified by statute or regulation of the Board;
3. place a registrant/licensee on probation or restrict or suspend the individual's license for a definite or indefinite time and prescribe conditions to be met during probation, restriction, or suspension including, but not limited to, satisfactory completion of additional education for a supervised time period, or of continuing education programs;
4. permanently revoke the license.

b. A decision by the Board to discipline a registrant/licensee as authorized under this regulation must be by a majority vote of the total membership of the Board serving at the time the vote is taken.

c. A final order of the Board disciplining a registrant/licensee under this section is public information.

d. Upon a determination by the Board that discipline is not appropriate, the Board may issue a nondisciplinary letter of caution.

21-4. Aggravating or Mitigating Circumstances. After a finding that misconduct has occurred, the Board shall impose one or more disciplinary sanctions, as authorized in the *Law*, after considering the presence of aggravating or mitigating circumstances.

21-5. Effect of Prior Criminal Convictions. A person may not be refused an authorization to practice, pursue, or engage in a regulated profession or occupation solely because of a prior criminal conviction unless the criminal conviction directly relates to the geology profession. (See Delaware Board of Registration of Geologists, 3600-9.0 for examples of 53 "crimes substantially related to the practice of geology.") The Board, however, may refuse an authorization to practice if, based upon all information available, including the applicant's record of prior convictions, it finds that the applicant is unfit or unsuited to engage in the geology profession.

21-6. Voluntary Surrender of License. A registrant/licensee who is under investigation for a violation provided for in *Section 20-3* (above), or in the *Law* governing the Board by which disciplinary action may be taken, may voluntarily surrender to the Board his/her license to practice. The voluntary surrender invalidates the authorization to practice at the time of its relinquishment, and no person whose license is surrendered voluntarily may practice the geology profession unless the Board, by a majority vote, reinstates the license. A person practicing as a Professional Geologist during the period of voluntary surrender is considered an illegal practitioner and is subject to the penalties provided by this section. The surrender of a license to practice may not be considered an admission of guilt in a proceeding under these *Rules and Regulations* and does not preclude the Board from taking disciplinary action against the registrant/licensee as provided for in the *Rules and Regulations* or the *Law*, including but not limited to, imposing conditions that must be met before the Board reinstates the license.

21-7. Rendering of Final Decision or Order. The final decision or order must be rendered within 60 days after the date the hearing is finally closed. Because a contested case is heard by an administrative law judge, the Board may prescribe a longer period of time within which the final order or decision of the Board shall be issued, normally in keeping with the scheduled quarterly (or other regular) meetings of the Board. The extension, if so prescribed, shall be announced at the conclusion of the hearing by the judge after consultation with the Executive Director/Board Administrator of the Board.

SECTION 22. REPORT OF DISCIPLINARY ACTIONS

Authority: *Law, Secs. 31 and 32; also, Secs. 2, 3(2) and 19.*

22-1. Record, Findings and Distribution. When the denial, revocation, or suspension of any license or registration is the subject for hearing, it shall be regarded as a contested case and the proceedings, including all testimony, shall be reported verbatim by a court reporter, or taped (audio or video).

- a. Record of Proceedings. The proceedings shall be recorded as follows:
 1. all pleadings, motions, and intermediate rulings;
 2. evidence received or considered;
 3. a statement of matters officially noted;
 4. questions and offers of proof, objections, and rulings on them;
 5. proposed findings and exceptions;
 6. any decision, opinion, or report by the hearing officer (judge) presiding at the hearing; and
 7. all staff memoranda or data submitted to or considered by the hearing officer (judge) or Board Members who are involved in making the decision.
- b. Findings. Findings of fact shall be based exclusively on the evidence presented and matters officially noted.
- c. Distribution. Copies of Board orders imposing disciplinary sanctions and copies of all settlement agreements or consent decrees shall be sent to the licensing body of each state or other jurisdiction name in which the registrant/licensee is licensed and to any other entities, organizations, associations, or boards as are required or deemed necessary and/or appropriate by the Executive Director/Board Administrator.

22-2. Decision and Order, Findings of Fact, and Conclusions of Law, and Order. Final disposition of the Report of Disciplinary Actions will be as follows:

- a. The Board shall, with the assistance of the hearing officer, following the full and complete hearing, make and enter a written decision and order containing findings of fact and conclusions of law within 60 days after the date the hearing is closed. The decision and order shall be filed with the Board -- which also has the option to extend the 60-day period because of its sometimes less-frequent meetings -- and shall become the decision and order as a result of the hearing.
- b. Upon entry and filing, the Board shall send electronically, or by U. S. mail, copies of the decision to each registrant/licensee or Geologist-In-Training (Trainee) and attorneys of record.

22-3. Costs. The Board may, at its discretion, assess all actual costs including staff time incurred in the disciplinary hearing process against any accused found guilty hereunder, or the complainant, or both.

SECTION 23. PROCEEDINGS OF ENFORCEMENT BY THE BOARD

Authority: *Law*, [Primarily, Sec. 34; also Secs. 2,3 (2), 18 (1), 18 (11), 18 (12), 18 (13), 18 (14), 19, 32, 33 and 36]; and Rules and Rules and Regulations,[Secs. 20-1, 20-2, 20-3, 20-4, 21-1, 21-2, 21-2, 21-4, 21-5, 21-6, and 21-7].

23-1. Civil Proceedings before Administrative Law Judge. The Board (or Department), in addition to instituting a criminal proceeding, may institute a civil action through the Administrative Law Judge Division, in the name of the State or other jurisdiction name, for injunctive relief against a person violating the *Law*, a regulation promulgated under the *Law*, or an order of the Board. For each violation the administrative law judge may impose a fine of no more than _____ thousand dollars.

23-2. Additional Available Proceedings of Enforcement. If the named person (respondent) fails or refuses to appear, the Board may proceed to hear and determine the validity of the charges. If, after such hearing, the Board finds that a violation has occurred, the Board may:

- a. Reprimand the named person, or suspend, refuse to renew, or revoke any license or authorization to practice granted under the *Law*.
- b. Require the respondent to participate in a program of continuing education in the area or areas in which the person has been found deficient.
- c. Require the respondent to practice under direct supervision of a licensed Professional Geologist for a period of time specified by the Board.
- d. Levy civil penalties for violations.

SECTION 24. APPEAL TO JURISDICTIONAL COURT

Authority: *Law, [Primarily, Secs. 35 and 18 (12); also, Secs. 18 (1), 18 (13), 18 (14), 18 (15), 18 (16), 18 (21), and 19.]; and Rules and Regulations [Secs. 20-5 (Subsecs. 5, 7, 11e, 11f, 11g, 13), 21-2, 21-5, and 21-6].*

24-1. Right to Judicial Review. Any person who is aggrieved by a final Board decision in a contested case, is entitled to a judicial review of such decision under the (State or other jurisdiction name) Administrative Procedures Act, or by any other procedure for judicial review available under law.

24-2. Administrative Law Judge. A person aggrieved by a final action of the Board may appeal the decision to the Administrative Law Judge Division, or other appropriate legal entity, in accordance with the Administrative Procedures Act and the rules of the Administrative Law Judge Division. Service of a petition requesting a review does not stay the Board's decision pending completion of the appellate process.

24-3. Period for Appeal. Parties desiring to appeal a Board decision must file a petition for review in the district court of the county where the Board action is taken within thirty calendar days after the service of the final decision by the Board. The thirty-day period for appeal commences to run from the date of mailing of the notice of order and decision to the parties or their attorneys of record. Service of the petition and summons must be made in accordance with (State or other jurisdiction name) law.

24-4. Transcript in Case of Appeal. In an appeal to the district court, the appellant shall pay and arrange for the transcript of the testimony. The transcript shall be verified by oath of the reporter or transcriber as a true and correct transcript of the testimony and other evidence in the case.

SECTION 25. PENALTIES RELATED TO NON-REGISTRANTS/LICENSEES

Authority: *Law*, [Primarily, Sec. 36; also, Secs. 2, 3 (2), 18 (1), 18 (11), 18 (12), 18 (13), 18 (14), and 19]; and *Rules and Regulations*, [Secs. 18-3, 18-4, 18-5, 19-1, 19-2, 19-3, 19-4, 19-5, 20-1, 20-2, 20-3, 20-5, 21-1, 21-2, 21-7, 22-2, 22-3, 23-1, 23-2, 24-1, 24-2, 24-3, and 24-4].

25-1. Actions Against Non-License Holders. Under the authority and provisions of the *Law* and appropriate *Rules and Regulations*, the Board shall investigate complaints and take action against non-license holders or firms who are found to be in violation of the *Law*. The following investigative process and resulting action listed in the following paragraphs (a. – c.) will be followed by the Board to ensure affected individuals and/or firms are afforded due process of law.

a. Upon receipt of a formal or staff-initiated complaint, the information will be evaluated by the Executive Director/Board Administrator to determine if the evidence provides sufficient probable cause that a violation may have occurred. The Investigative Committee shall consist of the Board's Executive Director/Board Administrator, the Board's legal counsel, and a Board member designated by the Executive Director/Board Administrator on a rotating basis provided that such member does not exhibit any bias or conflict of interest in being so designated.

b. If sufficient probable cause does not exist, an investigation will not be initiated.

c. If sufficient probable cause is found, then an investigation will be initiated by the Board staff to determine if a violation of law has occurred. The Board's investigative process will be as follows:

1. The individual or firm will be advised of the complaint and the specific section of the *Law* which appears to be violated. If the initial evidence is sufficiently strong, the Executive Director/Board Administrator may offer the respondent a consent order that, if accepted, will be presented to the Board for acceptance, modification or rejection. The consent order shall include an administrative penalty consistent with these *Rules and Regulations* [Secs. 18 – 23], relating to "Disciplinary Actions" and any compliance requirements. The respondent shall be fully informed of the range of penalties allowed under criminal, civil and administrative proceedings.

2. The respondent will be afforded the opportunity to respond to the complaint to show that the actions which precipitated the complaint are not in violation of the *Law*, or to accept the consent order.

3. If, after evaluation of the respondent's response a violation appears evident, the respondent will be afforded the opportunity to resolve the allegations informally in the same manner prescribed for license holders in *Rules and Regulations*, Secs. 18 through 23 (Disciplinary Actions).

4. Any Board action under this paragraph which is not informally disposed by written agreement or consent order, will be considered a contested case and will be handled in accordance with applicable law and Board Rules and Regulations.

Section 25-2. Examples of Violations and Resulting Penalties. Any person who commits any of the following acts shall be guilty of a misdemeanor:

a. Publicly practicing, or offering to publicly practice geology for others in this State or other jurisdiction name without being registered (licensed) in accordance with the provisions of the *Law* and *Rules and Regulations*;

- b. Presenting, or attempting to use, as his/her own the certificate of registration (license) or the seal of another;
- c. Giving or causing to give any false or forged evidence of any kind to the Board or to any Member thereof in obtaining a license;
- d. Falsely impersonating any other registrant/licensee of like or different name; or
- e. Attempting to use an expired, suspended, or revoked registration/license to practice at any time during a period when the registration/license is expired or when the Board has suspended or revoked said registration/license.

Section 25-3. Civil Proceedings. The Board, in addition to instituting a criminal proceeding, may institute a civil action through the Administrative Law Judge Division -- or other appropriate jurisdictional entity in the name of the State or other jurisdiction name, for injunctive relief against a person violating the *Law*, these *Rules and Regulations*, or an order of the Board. For each violation the administrative law judge, or other appropriate jurisdictional authority, may impose a fine of not more than _____ dollars.

Section 25-4. Fines (Optional section as to dollar amount and enforcement of fines. In some cases it might cost the Board more to enforce the collection than the actual amount of the fine.) The following schedule of fines shall apply:

- a. Engaging in unlicensed practice or using any title that would cause a reasonable person to believe the user of the title is licensed under these *Rules and Regulations*.
First Offense: \$ _____ Second Offense: \$ _____
- b. Engaging in, or representing oneself as engaged in, the practice of geology as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure.
First Offense: \$ _____ Second Offense: \$ _____
- c. Impersonating another registrant/licensee or engaging in practice under these *Rules and Regulations* using a false or assumed name.
First Offense: \$ _____ Second Offense: \$ _____
- d. Knowingly employing any person to practice under these *Rules and Regulations* who is not licensed to do so.
First Offense: \$ _____ Second Offense: \$ _____
- e. Knowingly permitted any person to use his/her license except as permitted by law.
First Offense: \$ _____ Second Offense: \$ _____
- f. Citations shall be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the amount of the second offense, with a maximum amount not to exceed \$ _____.
- g. If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

SECTION 26. REISSUANCE/REINSTATEMENT OF LICENSE

Authority: *Law, [Primarily, Secs. 26 (6) and 26 (7); also, Secs. 18 (9) and 32 (11)].*

26-1. Reissuance of License. The Board, for reasons it deems sufficient, may reissue a license to any person whose license has been revoked for more than one (1) year, or suspended, provided that 75 percent of the total voting Members of the Board vote in favor of such reissuance. The new, reinstated license may be issued also to replace one that was lost, destroyed or mutilated, subject to the rules and regulations of the Board, and payment of a fee determined by the Board.

SECTION 27. EXEMPTIONS

Authority: *Law, [Primarily, Secs. 37, with Addendum A, 18(1), and 24; also, Secs. 2, 18 (1), 18 (17), 21 (4), 24, and 31 (1)].*

Section 27-1. Activities Exempted From Licensure. The following activities shall not require licensure (registration):

- a. Geological work performed by an employee or a subordinate of a registered Professional Geologist, provided that neither the work nor the work-related products state, portray or infer by any manner or suggestion whatsoever that the employee or subordinate is in responsible charge of the geological work or work-related products. Any such geological work and/or work-related products must be conspicuously signed and sealed by the supervising registered Professional Geologist of that employee or subordinate;
- b. Geological work performed exclusively in the exploration for and development (proving out) of petroleum resources (See Appendix 2 - Definitions), including the giving of testimony, depositions, or preparation and presentation of exhibits or documents regarding petroleum resources for the sole purpose of consideration by, or being placed into evidence before, any administrative agency, judicial tribunal or public hearing, if the testimony, exhibits or documents do not imply that the person is registered under the *Law* and these *Rules and Regulations* and are specifically restricted to matters directly associated with petroleum geology if that exemption is included within the state's/jurisdiction's enabling legislation;
- c. The practice of engineering, including the acquisition of engineering data and the utilization of these data in analysis, design, and construction by professional engineers appropriately registered in this State or other jurisdiction name;
- d. Work customarily performed by physical or natural scientists such as chemists, archaeologists, geographers, oceanographers, pedologists and soil scientists, if that work does not include the planning and execution of geologic investigations, being in responsible charge of geologic work or the drawing of geologic conclusions and making recommendations involving the practice of geology;
- e. Geologic work which does not affect the public welfare as defined in these *Rules and Regulations, Sec. 4.*

27-2. Persons Exempted From Licensure. The following persons are exempt from the requirements of licensure under this section:

- a. A person engaged solely in geological research that has no foreseeable impact on public health, safety, or welfare as determined by the Board;
- b. A person engaged solely in the instruction of geology;
- c. A person not engaged in the public practice of geology;
- d. Regular full-time employees of a corporation, or any other privately owned business, not engaged in the public practice of geology as such, who are directly supervised by a person licensed as a Professional Geologist under these *Rules and Regulations.*

SECTION 28. PETITION AND EMERGENCY RULES AND REGULATIONS

Authority: *Law, [Primarily. Secs. 18 (1), 18 (11), and 18 (21); also, Secs. 14 and 17].*

28-1. Emergency Rules and Regulations. In the event that the Board finds that an immediate danger to the public health, safety or welfare requires adoption of a regulation upon fewer than thirty-five (35) days' notice or that action is required by or to comply with a federal statute or regulation which requires adoption of a regulation upon fewer than thirty-five (35) days' notice, the Board may adopt an emergency regulation under the provisions of the (State or other jurisdiction name) Administrative Procedures Act.

SECTION 29. SEVERABILITY

Authority: *Law, [Sec. 38, Invalid Sections]*.

29-1. Severability. If for any reason any section, paragraph, clause or part of these *Rules and Regulations* is held unconstitutional, or invalid, that determination shall not affect any other section, paragraph, clause or any other part of any of these Rules and Regulations.

NOTES

Section 3. Powers, Duties and Responsibilities of the Board

§ For examples of more details on seals, see regulations for Missouri (20CSR 2145-2.100); Texas (851.156) and Wisconsin [GHSS 1.03 (1-7)].

Section 9. Exceptions Allowable for Licensure

§ For some examples of more detailed requirements on temporary licensing, see appropriate regulations for Florida (Provisional license: 492, 106), Pennsylvania (37.61), South Carolina (131-07), and Texas (851.31).

Section 10. Applications

§ This section is adapted from Alabama Board of Licensure for Professional Geologists.

Section 11. Certificates: Issuance; Denial: Lost/destroyed

§ This section is adapted, in part, from the Georgia State Board of Registration for Professional Geologists and from the Texas Board of Professional Geoscientists. In these *Rules and Regulations* the term "licensure" is synonymous with "registration."

Section 12. Fees

§ This section is adapted, in part, from South Carolina Board of Registration for Geologists and from Idaho Board of Registration for Professional Geologists.

Section 13. Cooperative Licensure (Comity/Reciprocity)

§ As of November 2009, the ASBOG® Web site "Matrix" indicated that 26 of 29 Member States and Puerto Rico honored Cooperative Licensure. The terms cooperative licensure, reciprocity, mutual recognition, licensure by endorsement, and comity are considered herein to be synonymous. This section is adapted, in part, from the Nebraska Board of Geologists *Rules and Regulations*, 3-002.

§ An example of more detailed requirements is available under a comparable regulation from the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation (Geologists), *Professional Geologist Licensing Act, Part 1252.60*.

§ It is important to acknowledge that some states (e.g., Georgia) give a "veteran's preference" when scoring examinations. This upward adjustment over the actual examination score should be taken into account and appropriately acted upon as based on the actual governing law of the state or jurisdiction's name regarding this issue.

Section 14. Use of the Designation "Certified Professional Geologist"

§ This section is adapted from Wyoming Board of Professional Geologists, Chap. II, Sec. 5(h) and from Nebraska Board of Geologists, Chap. 2-005.07.

Section 15. Use of Seal and Signature

§ This section adapted from Texas Board of Professional Geoscientists (851.156) and from Wyoming Board of Professional Geologists (Chap. IV, Sec 2).

§ Rules and regulations governing use of seal and signature vary widely among the ASBOG® Member Boards. More detailed versions exist with Missouri Board of Geologist Registration (20 CSR 2145-2.100), Texas Board of Professional Geoscientists (851.156), Wisconsin Department of Regulation and Licensing-Geologists, Hydrologists and Soil Scientists [GHSS1.03(1-7)], and Wyoming Board of Professional Geologists (Chap. IV, Sec. 2). The Virginia Board of Geology, alone, encloses a diagram depicting a required seal (Regulation 18 VAC 20-70-20). Other Member Boards refer to their designs located elsewhere, and some offer detailed descriptions of the seal.

§ The term "geologist" is substituted for the term "geoscientist" throughout this section, but it is fully intended that the user may employ either term in accordance with his own statute.

Section 16. Code of Ethics

§ This section adapted from Indiana Board of Licensure for Professional Geologists, Title 305, Rule 5, "Code of Ethics" (updated 09/01/2004). Examples of other comparable rules and regulations: Alabama and New Hampshire.

Section 17. Continuing Education

§ THIS SECTION NOT REQUIRED. Continuing Education requirements are optional among most ASBOG® Member Boards.

Section 18. Complaints, Misconduct and Grounds for Disciplinary Actions/Violations

§ This section adapted from Wyoming Board of Professional Geologists and from Pennsylvania State Board of Professional Engineers, Land Surveyors and Geologists. Although not included in this section, the user, if interested, is referred to an unusual regulation: Delaware Regulation 8.0, Voluntary Treatment Option for Chemically Dependent or Impaired Professionals.

Section 19. Disciplinary Proceedings – Informal

§ Adapted from Nebraska Board of Geologists, Chap. 5-004, and Texas Board of Professional Geoscientists, Chap. 851.157.

Section 20. Disciplinary Proceedings – Formal

§ a. Adapted from South Carolina State Board of Registration for Geologists and from Wyoming Board of Professional Geologists. For more detail about the formal legal process, the user is referred to Nebraska Rules and Regulations, Chap. 5, Sec. 004.04, eight subsections, and Texas Rules for Geoscientist Licensure and the Practice of Geoscience, Chap. 850, Sec. 851.20, 41 subsections.

§ b. Adopted from South Carolina State Board of Registration for Geologists, Sec. 40-1-110.

§ c. Modified from Wyoming Board of Professional Geologists, Rules and Regulations, Chap. VI--Hearing Procedures, and from Alabama Board of Licensure for Professional Geologists, Chap. 364-X-16.10--*Ex Parte* Communications.

§ d. The user is referred to Nebraska Board of Geologists for detailed sequence in conducting "Prehearing Procedures" (Chap. 5-.004.04E), "Conducting a Contested Case Hearing" (Chap. 5-.004.04F) and "Decision and Order in a Contested Case" (Chap. 5-.004.04G).

Section 21. Disciplinary Proceedings – Sanctions

§ Modified from Texas Board of Professional Geoscientists (Chap. 851.857), New Hampshire Joint Board for Licensure and Certification: Professional Geologists (Part Geo 402), and South Carolina State Board for Registration of Geologists Code of Regulations (Art. 1, Secs. 40-1-120 and 40-1-130).

Section 22. Report of Disciplinary Actions

§ Modified from Wyoming Board of Professional Geologists (Chap. VI, Secs. 14 and 15), Texas Board of Professional Geoscientists (Chap. 851.243) and New Hampshire Joint Board for Licensure and Certification: Professional Geologists (Part Geo 402.02).

Section 23. Proceedings of Enforcement by the Board

§ See South Carolina State Board of Registration for Geologists, Sec. 40-1-210.

Section 24. Appeal to Jurisdictional Court

§ See Alabama Board of Licensure for Professional Geologists (Chap. 364-X-18-18-.01), South Carolina State Board of Registration for Geologists (Sec. 40-1-160) and Wyoming Board of Professional Geologists (Chap. VI, Secs. 16 and 17).

Section 25. Penalties Related to Non-registrant/licensees

§ See Texas Board of Professional Geoscientists (Chap. 851.158), Kentucky Board of Registration for Professional Geologists (322A.990), South Carolina State Board of Registration for Geologists (Secs. 40-1-200, 40-1-210, 40-1-220), and Utah Department of Occupational and Professional Licensing--Geologists (R156-76-501).

Section 26. Reissuance/reinstatement of License

§ See New Hampshire Joint Board for Licensure and Certification--Professional Geologists (310-A:136) and South Carolina State Board of Registration for Geologists (Sec. 40-77-300).

Section 27. Exemptions

§ See Mississippi Board of Registered Professional Geologists (Rule 11.05), Indiana Board of Licensure for Professional Geologists (Chap. 7, IC 25-17, 6-7-1) and Florida Board of Professional Geologists (Chap. 492.116).

Section 28. Petition and Emergency Rules and Regulations

§ Modified from Alabama Board of Licensure for Professional Geologists, Chap. 364-X-21.

Section 29. Severability

§ See Mississippi Board of Registered Professional Geologists (Rule 18.0) and Washington Geologist Licensing Board (Chap. 18.220.900).

APPENDIX 1 – DEFINITIONS

Definitions Repeated from the *Model Law* (2005)–*Section 4*

(Definitions from the *Law, Sec. 4*, are coordinated with definitions from the *Rules and Regulations* (Appendix 2) for the convenience of the user. The number each term and "means(s)" in the original *Law, Sec. 4* has been eliminated for brevity.)

Agent: Any person who is in responsible charge of geologic work or related activities of any trust, firm, joint stock company, public or private corporation (including a government corporation), partnership, association, jurisdiction, state, or any agency or institution thereof, municipality, commission, political subdivision of a state [jurisdiction] or any interstate body, and includes any officer, or governing or managing body of any municipality, political subdivision, of the United States or any officer or employee thereof. The agent is responsible for the geologic work in this jurisdiction and/or for geologic projects or those portions of projects involving geology offered by the aforementioned entities. The agent's responsibilities include:

- a) Overall supervision of the firm's licensed and subordinate personnel providing the geologic work in this jurisdiction; and
- b) Implementation of, and conformance to, policies of the firm consistent with the Rules/Regulations of the Board and this Act (*Model Law*).

Board: The Board of Licensure for Professional Geologists created under this Act (*Law*).

Certified Petroleum Geologist, Certified Coal Geologist, and Certified Geophysicist: Geologists who have been certified by the Division of Professional Affairs/American Association of Petroleum Geologists that have certification requirements recognized by the Board.

Enrollee: A geologist who is licensed with the Board as a Geologist-in-Training.

Firm: Any form of business entity, other than an individual registrant/licensee operating under his or her name, that offers professional geologic services to the public by its licensed personnel (see "Person" and "Agent").

Fund: The Licensed Professional Geologist Fund created under *Section 15* of this Act, and detailed within *Regulation 2-11*.

Geologist: An individual who possesses a degree in geology or one of its specialties.

Geologist-in-Training: An individual who has met the academic qualifications established by the Board, who has successfully passed a written examination demonstrating a knowledge of the fundamentals of geology, and who has been enrolled as a Geologist-in-Training by the Board.

Geology: The science which includes the study of the earth and its origin and history. Geology includes the investigation, research, and interpretation of the earth's constituent rocks, minerals, hydrocarbons, solids, and fluids, including surface and underground waters, gases and other materials and the study of the natural agents, forces, and processes which cause changes in both the subsurface and surface of the earth including any anthropogenic features or activities that may affect, or be affected by, but not limited to, these agents, forces, physical and chemical characteristics and processes.

Inactive registrant/licensee: A person who is not presently engaged in geologic practice requiring licensure in this jurisdiction and who has been granted an inactive status. Inactive registrants/licensees shall not practice in this jurisdiction and shall be further exempt from any continuing education requirements if this requirement exists as a mandatory program to maintain one's license.

Jurisdiction: A state, territory, commonwealth, or possession and the District of Columbia of the United States of America that issues licenses or certificates of registration to practice, and regulate the public practice of geology within its defined, legal boundaries.

Registrant/licensee: Any individual who holds a certificate of registration or licensure or certificate of enrollment issued under this Act.

Licensed Professional Geologist: An individual who, by reason of knowledge of geology and the other geosciences, mathematics and the supporting physical and life sciences acquired by formal education, and who possesses a verified degree in geology or one of its specialties from an accredited academic institution or, from a program accredited by an organization recognized by the Board meeting the standards of the Board, and who by training, successful passage of competency examination(s), and practical experience, as set forth in this Act, is qualified to engage in the public practice of geology, provided that he/she holds a valid license issued as a Licensed Professional Geologist by the Board.

Person: Any individual, trust, firm, joint stock company, public or private corporation (including a government corporation), partnership, association, state or other jurisdictional authority or any agency or institution thereof, municipality, commission, political subdivision of a state or other appropriate jurisdictional body or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof..

Public: The people of this jurisdiction.

Public practice of geology: This phrase shall mean, and include within the intent of this Act, any work or activity, including the responsible supervision and performance thereof, requiring formal geologic education, training, experience, and understanding and application of special knowledge of the mathematical, physical, chemical, biological, earth, and geological sciences as may be related to those services including, but not limited to, consultation, investigation, evaluation, planning, geologic mapping, interpretation, remediation, expert technical testimony, planning the use of land and water and the protection of ground and surface waters and the evaluation of ground-water resources; prevention and remediation of contamination of the earth, earth materials and water caused by improper disposal or accidental spills; determination of the suitability and risks in containment and disposal of wastes and hazardous materials, including, but not limited to, landfills, storage tanks, and injection wells; the evaluation of mining and petroleum properties; the professional supervision of exploration for and development of mineral/natural resources including, but not limited to, metallic and non-metallic minerals, petroleum¹, ground-water and surface-water resources (See Addendum A); the geologic phases of any engineering investigation or survey; siting of boreholes, determining depth of wells to be drilled, depth-of-casing and grouting requirements for the construction of monitoring wells or other borings into the earth that may affect one or more aquifers; the geologic suitability for construction projects, including excavations, building foundations, dams, highways, and other structures which may be affected by floods, landslides, earthquakes, sinkholes, erosion, expansive-contractive earth and earth materials, or other geoscientific phenomena or processes; geologic or geoscientific surveying and mapping, including making measurements and gathering data related to the physical features of the earth such as subsurface data and the

¹The professional practice area of petroleum is included, if not exempted, within the professional practice act adopted by the state or jurisdictional authority.

formulation and depiction of such information into geologic or geoscientific graphics, data, maps, plans, reports, and descriptions, and including preparing, creating, and/or modifying computerized, electronic products using geographic information systems, use of global positioning systems and information derived therefrom, or other information and data related to the activities contained within this section; geotechnical work activities, including the practice of various aspects of related professions incidental to the practice of geology; inspection of, or the responsible supervision of, the foregoing, and including any other geologic or related work which includes or embraces any services, activities, or work, public or private, which may be adversely or otherwise affected or influenced by geological processes, including but not limited to, utilities, construction projects, communication systems, transportation systems, or any other anthropogenic features or impacts, insofar as it involves protecting and safeguarding the public's health, safety, and welfare and the environment, and including such other professional services as may be necessary in the planning, progression and completion of any such geologic services. Furthermore, these geologic services also include those not specifically defined herein which include, but are not limited to, the commonly recognized geologic practices of archeogeology, coastal geology, construction geology, economic geology, engineering geology, environmental geology, forensic geology, geochronology, geomorphology, historical geology, hydrogeology, geochemistry, geophysics, marine geology, medical geology, mineralogy, mining geology, paleomagnetism, paleontology (vertebrate and invertebrate), paleoclimatology, petroleum geology, petrography, petrology, physical geology, physiography, planetary geology, sedimentology, stratigraphic geology, structural geology, urban geology, vulcanology, etc., and the utilization of the [jurisdiction's] rock, mineral, fossil-fuel, and water resources, while protecting the public and the environment.

Any individual practicing, offering to practice, or attempting to publicly practice geology, or performing any geologic activities that may be construed to be incidental to another's licensed or registered professional practice, or claiming any specialty in geology, as a professional, business or commercial identification, title, name, representation or claim, or otherwise holding himself/herself out to the public in any manner whatsoever as being qualified to practice geology or any of its specialties, shall be registered/licensed under this Act. Furthermore, any person who offers to practice or is practicing geology, within the scope, meaning, and intent of this Act, who practices within any sector of the profession of geology, or by sign, card, letterhead, advertisement, Web site¹, verbal claim, or any other way represents or holds himself/herself to be a Professional Geologist or that he/she is registered/licensed under this Act, provides and/or performs any geologic services, activities, work, or any other services designated by the professional practitioner and is recognized as geology shall be construed to be practicing, or offering to publicly practice, geology.

During the course of providing geologic guidance/work or geologic work activities, the practitioner may coordinate and review the submissions prepared by others, without limitation, provided that such submissions lie within, or are incidental to, the public practice of geology and the practitioner is familiar with the details and progress of these activities.

Furthermore, the public practice of geology shall include:

- (a) The preparation of geologic reports, documents, or exhibits by any commission, board, department, district, or division of the [jurisdiction] or any political subdivision thereof or of any county/parish, city, or other public body, or by the employees or staff members of the commission, board, department, district, or division of the [jurisdiction] or any political subdivision thereof or of any county/parish, city, or other public body when the reports, documents, or exhibits are disseminated or made available to or impact the public; and,

- (b) The performance of geologic services by any individual, person, firm, partnership, corporation, or other association or by the employees or staff members thereof, whether or not the principal business of the organization is the practice of geology, in which the geologic reports, documents, or exhibits constituting the practice of geology are disseminated or made available to the public or any individual or organization in such a manner that the public or individual or combination of individuals may reasonably be expected to rely thereon or be affected thereby; and
- (c) Any geologic report or geologic portion of a report required by or supporting compliance with municipal, county/parish, state, [jurisdiction], or federal laws, ordinances, rules or regulations, which incorporates, or is based on, a geologic study or on geologic data, shall be prepared by or under the supervision of a registered/licensed Professional Geologist as evidenced by the geologist's signature and seal as provided in Section 30. However, geologic reports, documents, or exhibits that are prepared by the employees or staff members of any individual, firm, partnership, corporation, or other association or commission, board, department, district, or division of the [jurisdiction] or any political subdivision thereof or any county/parish, city, or other public body that are for use solely within such organizations are considered in-house reports, documents, or exhibits and are not the practice of geology for others unless, or until the reports are disseminated, or made available to or impacts the public, as set forth in (a) or (b) of this subsection.

Public contracts: Any public contracts issued within this jurisdiction, and its political subdivisions; and all public boards, districts, commissions, or authorities shall contract for geologic services only with persons registered/licensed under this Act or with business entities employing geologists registered/licensed under this Act, who shall be in responsible charge of the geologic work.

Responsible charge: The independent control and direction, by use of initiative, skill, and independent judgment, of geologic or related work or the supervision of that work.

Rules of the Board: Rules/regulations shall include a Code of Ethics/Professional Conduct (Section 16) and other rules/regulations promulgated by the Board as authorized and required by this Act.

Seal or Stamp: The symbol, image (including embossed, rubber stamp or electronic facsimile) of the information that may be required pursuant to the *Rules and Regulations* to be adopted by the Board so created herein.

Signature: The signature of the registrant/licensee and is required in conjunction with his/her stamp or embosser as specified in accordance with the *Rules and Regulations* to be adopted by the Board so created herein.

Specialty: Any branch or discipline of geology that may be recognized under this Act, or Rules and Regulations promulgated by the Board for certifying specialization in a specific geologic field of study or related scientific field of study, or both.

Subordinate: Any individual who assists in the public practice of geology by a registered/licensed Professional Geologist without assuming or by any other means implying responsible charge of work.

Welfare: Welfare (public's) shall mean both the physical welfare of the public and its financial welfare including any property owned individually or collectively and any taxpayer, funds used in conjunction with, any and all of the functions, of this jurisdiction or any board, commission, municipality, county/parish, and/or any other political subdivision thereof that include activities contained within the definition of the public practice of geology.

APPENDIX 2 – DEFINITIONS

Compiled from the *Model Rules and Regulations*

(Source: Webster's Universal College Dictionary. New York: Random House, 1997, 945 pp.)

cheating: "Cheating on an examination is grounds for denial, suspension, or revocation of a license and/or an administrative penalty." [Rules and Regulations, Sec. 3-2. c. 4.]

contested case: "Any Board action under this section which is not informally disposed by agreement or consent order (on part of the respondent) will be considered a contested case and will be handled in accordance with applicable law and the Board's Rules and Regulations", including a formal hearing process. [Rules and Regulations, Sec. 19-5].

convicted: "As used in this paragraph, the term 'convicted' includes a finding or verdict of guilt, an admission of guilt, or a plea of *nolo contendere*".

electronic seal, electronic signature: Generated by using public key infrastructure or signature dynamics technology. An electronic signature is a digital authentication process attached to or logically associated with an electronic document. [Rules and Regulations, Secs. 15-2 and 15-5]. For details on electronic seals and signatures, see Texas Board of Professional Geoscientists, Rules for Geoscientist Licensure and the Practice of Geoscience, Chap. 851.156, (f-j), Geoscientist's Seals.

ex parte communication: From or on one side only in a dispute. Within the context of Board formal disciplinary action, "no *ex parte* communication" means no conveying of information about the case to anyone by Board Members or staff. [Rules and Regulations, Sec. 20-5, subsec. 3].

felony: An offense, as murder or burglary, of graver character than a misdemeanor and usually punished by imprisonment for more than one year. [Rules and Regulations, Sec. 18-2. e.].

injunctive relief: Result of a judicial process (an injunction) or judge's order requiring the person or persons to whom it is directed to do or refrain from doing a particular act; a command. In the Board context, term is used as one part of its authority to enforce its Rules and Regulations on both registrants/licensees and non-registrants/licensees. [Rules and Regulations, Sec. 23-1].

misconduct: See "Unprofessional conduct".

misdemeanor: A criminal offense less serious than a felony. In the Board context, several examples, each a misdemeanor, are given [Rules and Regulations, Secs. 18. 2. e. and 25-2].

moral turpitude: moral: conforming to accepted or established principles of right conduct (as opposed to *immoral*); virtuous; upright; turpitude: vile or base character; depravity; 2. a vile or depraved act. [Rules and Regulations, Sec. 20-3. h.].

petroleum development (petroleum development geology): the proving-out of petroleum resources; that phase of petroleum operations that occurs after geologic exploration has proven successful. During this phase, development geologists perform detailed mapping activities utilizing subsurface mapping methods as well as other associated geoscientific methods and subdisciplines to delineate the areal extent of petroleum accumulation. These geoscience activities may lead to the drilling of development wells to efficiently extract the petroleum resources contained in the petroleum accumulation. [Adapted from Schlumberger Oilfield Glossary, May, 2011]

petroleum exploration (petroleum exploration geology): the initial phase in petroleum operations that includes generation of a prospect or play or both. During this phase, exploration geologists perform mapping activities utilizing subsurface and geophysical mapping methods as well as other associated geoscientific methods and subdisciplines to delineate the likelihood of a petroleum accumulation(s). These geoscience activities may lead to the drilling of an exploratory well to determine the presence of petroleum. [Adapted from Schlumberger Oilfield Glossary, May, 2011]

public welfare: See Appendix 1, *Model Law* definitions, "Welfare."

sanction: A provision of a law enacting a penalty for disobedience; also, the penalty imposed. In the Board context, four (4) subsections under "Disciplinary Proceedings -- Sanctions" provide progressive steps and examples. [Rules and Regulations, Secs. 21-1, 21-2, 21-3 and 21-4].

severability: In the context of the *Law* and these *Rules and Regulations*, if one section is judicially ruled invalid, then the remaining sections shall remain intact and in force. [Law, Sec. 38; and Rules and Regulations, Sec. 28].

subpoena: A writ to summon witnesses or evidence before a court of law. In the context of the *Law* and these *Rules and Regulations*, the Board has the authority to compel registrants/licensees, witnesses, and any others connected with a contested case to produce documents, testimony and any other items related to the case and needed by the Board in order to render a decision or prepare a case for a court of law. [Law, Secs. 18 (12), 18 (13), 32 (3), and 36(3); Rules and Regulations, Secs. 20-1 and 20-5].

unprofessional conduct: Opposite of "Professional Conduct," as stated in Rules and Regulations, Sec. 16-1, Code of Ethics: "Each Professional Geologist (P. G.) must be guided by the highest standards of honesty, integrity, impartiality, and personal conduct." Synonymous with "misconduct" [Rules and Regulations, Sec. 18-2., Misconduct]. That section, 18-2, lists and describes ten (10) examples of misconduct (unprofessional conduct). The Board may make a determination of unprofessional conduct either by a breach of the *Code of Ethics* or a similar finding under the *Law*, Sec. 31, *Grounds for Disciplinary Action* [25 examples listed and explained] directly related to *Rules and Regulations*, Sec. 18.