DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
3600 BOARD OF GEOLOGISTS

Statutory Authority: 24 Delaware Code, Section 3606(a)(1) (24 **Del.C.** §3606(a)(1))
24 **DE Admin. Code** 3600

FINAL

ORDER

3600 Board of Geologists

After due notice in the Delaware *Register of Regulations* and two Delaware newspapers, a public hearing was held on February 10, 2017 at a scheduled meeting of the Delaware Board of Geologists ("Board") to receive comments regarding the Board's proposed revisions to its rules and regulations.

The Board added a new Section 7.1.1.1 which will allow an applicant to take the Fundamentals of Geology ("FG") examination during that applicant's final semester in an accredited geosciences program leading to a degree. The examination is given just twice a year, in March and October. This change will enable the applicant to take the FG examination in March rather than waiting until October. The applicant will still be required to meet all other requirements for licensure, including passing the Practice of Geology examination. The results of the FG examination will be disclosed to the applicant after the final transcript is received. In addition, the list of automatically approved continuing education course providers, in Section 6.10, is amended to add the Pennsylvania Council of Professional Geologists. Finally, Section 6.10.54 is stricken to eliminate Board discretion to add providers to that list. Licensees will still have the option of seeking specific course approval from the Board.

The proposed changes to the rules and regulations were published in the *Register of Regulations*, Volume 20, Issue 7, on January 1, 2017. Notice of the February 10, 2017 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 **Del.C.** §10118(a), the date to receive final written comments was February 25, 2017, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on March 10, 2017.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

Board Exhibit 1: *News Journal* Affidavit of Publication.

Board Exhibit 2: *Delaware State News* Affidavit of Publication.

Board Exhibit 3: January 23, 2017 email from R. Jeffries of PA Council of Professional Engineers.

There was no verbal testimony given at the public hearing on February 10, 2017. One written comment was received. In her email dated January 23, 2017, Ms. Jeffries asked that the PA Council of Professional Geologists be included as a pre-approved course provider under subsection 6.10. (Board Exhibit 3). This suggestion had been included in the amended regulations.

Findings of Fact and Conclusions

Pursuant to 24 **Del.C.** §3606(a)(1), the Board has the statutory authority to promulgate rules and regulations.

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on the proposed amendments to the Board's rules and regulations. There was no verbal testimony at the hearing and the written suggestion from Ms. Jeffries has been incorporated in the revised regulations.

In these circumstances, the Board finds no reason to amend the rules and regulations as proposed.

Decision and Effective Date

The Board finds that the rules and regulations shall be adopted as final in the form proposed. These changes will become effective ten days following publication of this Final Order in the Delaware *Register of Regulations*.

Text and Citation

The exact text of the rules and regulations, as amended, is attached to this order as Exhibit A.

IT IS SO ORDERED this 10th day of March 2017 by the Delaware Board of Geologists.

William “Sandy” Schenck, Professional Member, President	Maureen LaFate, Public Member (absent)
Steven Smailer, Professional Member, Vice President	Kenneth Dryden, Public Member (absent)

Douglas Rambo, Professional Member, Secretary Judith Nicholas, Public Member
David Reinhold, Professional Member

3600 Board of Geologists

1.0 Definitions

"**Board"** shall mean the State Board of Geologists established in 24 **Del.C.** §3603.

"Continuing Education Unit" shall mean one contact hour (60 minutes), subject to the Board's review.

"Five Years of Experience" shall mean:

Experience acquired in geological work as described in the 24 **Del.C.** §3602(5) and (6) and after completion of academic requirements as stated in §3608(a)(1). The Board may discount experience obtained more than ten (10) years prior to the submission of an application. Part-time experience will be granted proportional to full-time credit. Three (3) of the five (5) years of experience must be in a position of responsible charge as defined below.

Experience references must be provided by a person knowledgeable and having a background of geological work.

The Board will only consider years of experience documented by references.

"Geologist" shall mean a person who is qualified to practice professional geology including specialists in its various subdisciplines.

"Practice of Geology" shall mean any service or creative work, the adequate performance of which requires geologic education, training and experience in the application of the principles, theories, laws and body of knowledge encompassed in the science of geology. This may take the form of, but is not limited to, consultation, research, investigation, evaluation, mapping, sampling, planning of geologic projects and embracing such geological services or work in connection with any public or private utilities, structures, roads, buildings, processes, works or projects. A person shall be construed to practice geology, who by verbal claim, sign, advertisement or in any other way represents himself or herself to be a geologist, or who holds him/herself out as able to perform or who does perform geologic services or work.

"Responsible Charge" shall mean the individual control and direction, by the use of initiative, skill and individual judgment, of the practice of geology.

16 DE Reg. 437 (10/01/12)

2.0 Procedures for Licensure

2.1 Application - Initial Licensure

An applicant who is applying for licensure as a geologist shall submit evidence showing that he/she meets the requirements of 24 **Del.C.** §3608. The applicant must submit the following documentation:

2.1.1 An application for licensure, which shall include:

2.1.1.1 Academic credentials documented by official transcripts showing completion of an educational program meeting the requirements of 24 **Del.C.** §3608(a)(1).

2.1.1.2 Any applicant holding a degree from a program outside the United States or its territories must provide the Board with an educational credential evaluation from an agency approved by the Board, demonstrating that their training and degree are equivalent to domestic accredited programs. No application is considered complete until the educational credential evaluation is received by the Board.

2.1.1.3 Five professional references on forms provided by the Board. The references must attest that the applicant has completed at least five (5) years of work experience in geologic work satisfactory to the Board. A minimum of three (3) years of work experience must be in a responsible position. A minimum of two (2) of the five (5) professional references shall be dated within the two year period preceding submission of the application.

2.1.1.4 Evidence that the applicant has achieved the passing score on all parts of the written, standardized examination administered by the National Association of State Boards of Geology (ASBOG), or its successor.

2.1.1.5 Letters of good standing from all jurisdictions in which the applicant is licensed or registered.

2.2 Application - By Reciprocity

An applicant who is applying for licensure as a geologist by reciprocity shall submit evidence showing that he/she meets the requirements of 24 **Del.C.** §3609. The applicant must submit the following documentation:

2.2.1 An application for licensure, which shall include:

2.2.1.1 Academic credentials documented by official transcripts showing completion of an educational program meeting the requirements of 24 **Del.C.** §3608(a)(1).

2.2.1.2 Any applicant holding a degree from a program outside the United States or its territories must provide the Board with an educational credential evaluation from an agency approved by the Board, demonstrating that their training and degree are equivalent to domestic accredited programs. No application is considered complete until the educational credential evaluation is received by the Board.

2.2.1.3 Evidence that the applicant is currently licensed or certified in the jurisdiction from which he/she is applying and the applicant has practiced for a minimum of two (2) years after licensure in the jurisdiction from which he/she is applying including two (2) professional references on forms provided by the Board. An applicant may not obtain reciprocity on a lapsed or expired license or certification. The references must attest that the Applicant has completed at least two (2) years of work experience in geologic work satisfactory to the Board. The required two years of geologic work experience attested to by the referees must have been performed in the jurisdiction from which the applicant is seeking reciprocity.

2.2.1.4 Evidence that the applicant has achieved the passing score on all parts of the written, standardized examination administered by the National Association of State Boards of Geology (ASBOG), or its successor.

2.2.1.4.1 Applicants, who were originally licensed in another jurisdiction after June 17, 1998, will be required to have a passing score (70%) on each part of the ASBOG examination.

2.2.1.5 Letters of good standing from all jurisdictions in which the applicant is licensed or registered.

11 DE Reg. 349 (09/01/07)
13 DE Reg. 682 (11/01/09)
16 DE Reg. 437 (10/01/12)
19 DE Reg. 1104 (06/01/16)

3.0 Seal Requirements

3.1 No later than September 30, 2018, pursuant to 24 **Del.C.** §3619, each licensed geologist shall procure a seal, which shall contain the name of the geologist, his/her license number and the phrase "STATE OF DELAWARE - LICENSED PROFESSIONAL GEOLOGIST." This seal shall comply in all respects with the specimen shown below.

3.2 The seal authorized by the Delaware State Board of Geologists shall not be less than one and one-half (1 ½) inches in diameter. The seal may be a rubber stamp, an embossed seal, or an electronic seal. An electronic seal and signature may be used in lieu of a stamped or embossed impression of the seal and original signature only for documents that are transmitted electronically. The graphic image of the electronic seal shall have the same graphic appearance in all respects as in subsection 3.1 above.

3.3 All technical submissions prepared by a licensed geologist, or under that geologist's direct supervision, and that will become a matter of public record, or relied upon by any person, within this state as the result of the practice of geology as defined in 24 **Del.C.** §3602(5), shall be affixed with that geologist's seal. No licensed geologist shall affix that geologist's seal on any technical submission unless it has been prepared under that geologist's direct supervision. The seal will indicate that the licensed geologist has accepted responsibility for the submission and the work performed.

3.4 No person shall seal any plans, reports, specifications, plats or similar technical submissions with the seal of a licensed geologist or in any manner use the title "geologist," unless such person is duly licensed in compliance with 24 **Del.C.** Ch. 36.

3.5 No person shall seal any plans, specifications, plats, reports, or a similar document with the seal of a licensed geologist if his/her license has been suspended, revoked or has expired.

3.6 Computer files of reports, drawings or similar technical work involving the practice of geology and that will become a matter of public record or relied upon by any person shall include the following statement:

This submission is made in compliance with 24 **Del.C.**, Ch. 36 by [Name], P.G., DE license number [License Number] on this date [Date].

19 DE Reg. 1104 (06/01/16)

4.0 Licensing Exemption

4.1 Any person who claims exemption from the provisions of 24 **Del.C.** §3617(a), shall be entitled to such exemption so long as his/her remuneration from the practice of geology is solely related to a teaching function. If such remuneration is processed through his/her academic unit, it shall be considered prima facie evidence of the fact that such work is related to his/her teaching. Any person claiming such exemption shall, in a conspicuous manner at the conclusion of any report or study bearing his/ her name, include the statement:

"I hereby claim exemption from the requirements of 24 **Del.C.** Ch. 36 (Delaware Professional Geologist Act) and am not subject to the provisions of that Act and the standards and regulations adopted pursuant thereto."

Such a disclaimer shall not be required on reports or studies submitted solely to refereed professional journals for publications.

Any other geologic work, including consulting, not directly related to educational activities, shall not be considered exempt.

16 DE Reg. 437 (10/01/12)

5.0 Issuance and Renewal of License

5.1 Each license shall be renewed biennially. The failure of the Board to notify a licensee of his/her license expiration date and subsequent renewals does not, in any way, relieve the licensee of the requirement to renew his/her certificate pursuant to the Board's regulations and 24 **Del.C.** Ch. 36.

5.2 Renewal shall be effected online at www.dpr.delaware.gov and by:

5.2.1 providing other information as may be required by the Board to ascertain the licensee's good standing;

5.2.2 attesting on the renewal application to the completing of continuing education as required by Section 6.0;

5.2.3 payment of fees as determined by the Division of Professional Regulation.

5.3 Failure of a licensee to renew his/her license shall cause his/her license to lapse. A geologist whose license has lapsed may renew his/her license within three (3) months after the license expiration date upon fulfilling subsections 5.2.1 - 5.2.3 above, after providing a notarized letter certifying that he/she has not practiced geology in Delaware while his/her license has been lapsed, and paying the renewal fee and a late fee which shall be 50% of the renewal fee as determined by the Division of Professional Regulation.

5.3.1 Lapsed license renewals shall be audited for satisfactory completion of the continuing education requirements.

5.3.2 No geologist shall practice geology in the State of Delaware during the period of time that his/her license is lapsed.

5.4 Failure of a licensee to renew his/her lapsed license within the three (3) month period in subsection 5.3 above shall cause his/her license to terminate.

5.4.1 A geologist whose license has terminated may re-apply under the same conditions that govern applicants for new licensure under 24 **Del.C.** Ch. 36, and must provide a notarized letter certifying that he/she did not practice geology in Delaware after the license expiration date.

5.4.2 Reapplication for terminated licenses shall be audited for satisfactory completion of 24 CEUs completed within 24 months prior to reapplication and will automatically be audited.

5.4.3 No geologist shall practice geology in the State of Delaware during the period of time that his/her Delaware license has terminated.

5.5 Inactive Status: A licensee may be placed on inactive status by the Board for a period of no more than five years. Requests for inactive status shall be made, in writing, to the Board.

5.5.1 To apply for reactivation of an inactive license, a licensee shall:

5.5.1.1 Submit a letter requesting reactivation;

5.5.1.2 Submit a reactivation fee;

5.5.1.3 Submit proof of completion of 24 CEUs, completed within 24 months prior to reactivation and will automatically be audited.

5.5.2 Licensees who do not apply for reactivation by the end of the five year inactive period will be converted to a terminated status.

5.5.3 A geologist whose license has terminated may re-apply under the same conditions that govern applicants for new licensure under 24 **Del.C.** Ch. 36, and must provide a notarized letter certifying that he/she has not practiced geology in Delaware while his/her license has been inactive.

5.5.4 No geologist shall practice geology in the State of Delaware during the period of time that his/her Delaware license has been inactive.

10 DE Reg. 567 (09/01/06)
16 DE Reg. 437 (10/01/12)
17 DE Reg. 991 (04/01/14)
19 DE Reg. 1104 (06/01/16)

6.0 Continuing Education

6.1 Preamble

6.1.1 In order to protect the general public and ensure a high standard of integrity, skills and knowledge in the practice of geology, the following continuing education requirements are established by the Board in accordance with 24 **Del.C.** §3606(a)(8).

6.1.2 Regular participation in technical, professional and ethical training, and participation in professional and technical organizations assures that professional geologists are exposed to new ideas and keep their skills current. The overriding consideration in determining if a specific program or activity qualifies as continuing education shall be that it is a means to update and/or expand the professional's knowledge and skills in the practice of geology beyond their normal job-related activities. The requirement that all professional geologists must participate in such activities is meant to further safeguard the health, safety and welfare of the public.

6.2 The Board will require continuing education as a condition of license renewal.

6.2.1 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the Requirement of Section 6.0.

6.2.2 Renewal and attestation shall be completed electronically.

6.2.3 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to subsection 6.4.

6.3 Licenses are renewed biennially (every two years on the even year) on September 30 (e.g. September 30, 2006, 2008). Continuing education (CE) reporting periods run concurrently with the biennial licensing period.

6.4 Each licensed geologist shall complete, biennially, 24 units of continuing education as a condition of license renewal. The licensee is responsible for retaining all certificates and documentation of participation in approved continuing education programs. Upon request, such documentation shall be made available to the Board for random post renewal audit and verification purposes. A continuing education unit is equivalent to one contact hour (60 minutes), subject to the Board's review. The preparing of original lectures, seminars, or workshops in geology or related subjects shall be granted one (1) contact hour for preparation for each contact hour of presentation. Credit for preparation shall be given for the first presentation only.

6.5 A candidate for renewal may be granted an extension of time in which to complete continuing education hours upon a showing of hardship. "Hardship" may include, but is not limited to, disability; illness; extended absence from the jurisdiction; or exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period for which it is made.

6.6 Continuing education shall be prorated for new licensees in the following manner:

6.6.1 If at the time of renewal, a licensee has been licensed for less than one (1) year, no continuing education is required; if he/she has been licensed for more than one (1) year, but less than two (2) years, twelve (12) of the twenty-four (24) hours will be required; if he/she has been licensed for two (2) years or more the full twenty-four (24) hours is required.

6.7 In his/her personal records, each licensee must keep proof of attendance for each activity for which the licensee is requesting credit. If the Board conducts an audit of a licensee's CE records, the Board will require the licensee to complete a CE log provided by the Board and submit the licensee's documentation of

attendance to the CE event listed on the CE log. Failure to submit proof of attendance during an audit will result in loss of CE credit for that event.

6.8 Continuing education must be in a field related to Geology. Approval will be at the discretion of the Board. CEUs earned in excess of the required credits for the two- (2) year period may not be carried over to the next biennial period.

6.9 Categories of Continuing Education & Maximum Credit Allowed:

6.9.1 Geologic courses – 24 CEUs Total

Academic – 24 CEUs

Documentation – Proof of Completion

6.9.2 Professional Development in the Application of Practice of Geologic Sciences – 24 CEUs Total

Meetings – 12 CEUs (excluding job related meetings such as department meetings, supervision of students and business meetings within the work setting)

Workshops - 12 CEUs

Field Trips – 12 CEUs

Seminars - 12 CEUs

Documentation – Proof of Attendance and Duration

6.9.3 Peer Reviewed Publications– 12 CEUs Total

Composition – 12 CEUs

Review – 12 CEUs

Documentation – Proof of Participation

6.9.4 Research/Grants – 12 CEUs Total

Documentation – Proof of Submission

6.9.5 Specialty Certifications – 12 CEUs Total

Documentation – Proof of Completion

6.9.6 Online courses and Web seminars – 12 CEUs Total

Documentation – Proof of Completion

6.9.7 Teaching/Presentations – 12 CEUs Total

Presentation - 12 CEUs (1 hour prep time per hour presented of original presentation)

Documentation – Verification from Sponsoring Institution

6.9.8 Service on a Geological Professional Society, Geological Institution Board/Committee or Geological State Board – 6 CEUs Total

Documentation – Proof of Appointment

6.9.9 Regulatory Based Activities – 12 CEUs Total

Certifications/Training – 12 CEUs Total

Documentation – Proof of Completion

6.9.10 For any of the above activities, when it is possible to claim credit in more than one category, the licensee may claim credit for the same time period in only one category.

6.10 Automatic Approval for course work sponsored by the following Professional Societies:

6.10.1 American Association of Petroleum Geologists (AAPG)

6.10.2 American Association of Stratigraphic Palynologists (AASP)

6.10.3 American Geosciences Institute (AGI)

6.10.4 American Geophysical Union (AGU)

6.10.5 American Institute of Hydrology (AIH)

6.10.6 American Institute of Professional Geologists (AIPG)

6.10.7 American Rock Mechanics Association (AMRA)

6.10.8 American Water Resources Association (AWRA)

6.10.9 Association for the Sciences of Limnology and Oceanography (ASLO)

6.10.10 Association of American Geographers (AAG)

6.10.11 Association of American State Geologists (AASG)

6.10.12 Association of Earth Science Editors (AESE)

6.10.13 Association of Environmental and Engineering Geologists (AEG)

6.10.14 Association of Ground Water Scientists & Engineers (AGWSE)

6.10.15 Association of Women Geoscientists (AWG)
6.10.16 Clay Mineral Society (CMS)
6.10.17 Council on Undergraduate Research-Geosciences Div. (CUR)
6.10.18 Environmental and Engineering Geophysical Society (EEGS)
6.10.19 Friends of Mineralogy (FOM)
6.10.20 Geochemical Society (GS)
6.10.21 Geo-Institute of the American Society of Civil Engineers (GI)
6.10.22 Geologic Society of America (GSA)
6.10.23 Geological Society of London (GSL)
6.10.24 Geoscience Information Society (GIS)
6.10.25 History of Earth Sciences Society (HESS)
6.10.26 International Medical Geology Association (IMGA)
6.10.27 International Association of Hydrogeologists/US National Committee (IAH)
6.10.28 Karst Waters Institute (KWI)
6.10.29 Mineralogical Society of America (MSA)
6.10.30 National Association of Black Geologists and Geophysicists (NABGG)
6.10.31 National Association of Geoscience Teachers (NAGT)
6.10.32 National Association of State Boards of Geology (ASBOG)
6.10.33 National Cave and Karst Research Institute (NCKRI)
6.10.34 National Earth Science Teachers Association (NESTA)
6.10.35 National Ground Water Association (NGWA)
6.10.36 National Speleological Society (NSS)
6.10.37 North American Commission on Stratigraphic Nomenclature (NACSN)
6.10.38 Paleobotanical Section of the Botanical Society of America (PSBSA)
6.10.39 Paleontological Research Institution (PRI)
6.10.40 Paleontological Society (PS)
6.10.41 Palynological Society (AASP)
6.10.42 Pennsylvania Council of Professional Geologists (PCPG)
6.10.4~~2~~3Petroleum History Institute (PHI)
6.10.4~~3~~4Seismological Society of America (SSA)
6.10.44~~5~~Society of Economic Geologists (SEG)
6.10.4~~5~~6Society of Exploration Geophysicists (SEG)
6.10.4~~6~~7Society of Independent Professional Earth Scientists (SIPES)
6.10.4~~7~~8Society of Mineral Museum Professionals (SMMP)
6.10.4~~8~~9Society for Mining, Metallurgy, and Exploration, Inc. (SME)
6.10.4~~9~~50Society for Organic Petrology (TSOP)
6.10.5~~0~~1Society for Sedimentary Geology (SEPM)
6.10.5~~1~~2Society of Vertebrate Paleontology (SVP)
6.10.5~~2~~3Soil Science Society of America (SSSA)
6.10.5~~3~~4United States Permafrost Association (USPA)
~~6.10.54 Other professional or educational organizations as approved periodically by the Board.~~

6.11 Courses not pre-approved by the Board may be submitted for review and approval throughout the biennial licensing period.

Note: Since subsection 6.10 provides the list of sponsors that are automatically approved by the Board for any course work used for Continuing Education units (CEU) towards the total of 24 CEUs in the biennial license period, please note that subsection 6.11, allowing for pre-approval of courses for CEUs, only pertains to courses NOT offered by a sponsor listed in the list provided in subsection 6.10. Furthermore, one CEU = one Contact Hour.

6.12 Audit. Each biennium, the Division of Professional Regulation shall select from the list of potential renewal licensees a percentage, determined by the Board, which shall be selected by random method. The Board may also audit based on complaints or charges against an individual license, relative to compliance with continuing education requirements or based on a finding of past non-compliance during prior audits.

6.13 Documentation and Audit by the Board. When a licensee whose name or number appears on the audit list applies for renewal, the Board shall obtain documentation from the licensee showing detailed accounting of the various CEU's claimed by the licensee. Licensees selected for random audit are required to supplement the attestation with attendance verification.The Board shall attempt to verify the CEUs shown on the documentation provided by the licensee. The Board shall then review the documentation and verification. Upon completion of the review, the Board shall decide whether the licensee's CEU's meet the requirements of these rules and regulations. The licensee shall sign and seal all verification documentation with a Board approved seal.

6.14 Board Review. The Board shall review all documentation requested of any licensee shown on the audit list. If the Board determines the licensee has met the requirements, the licensee's license shall remain in effect. If the Board initially determines the licensee has not met the requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these requirements. Unjustified noncompliance of these regulations shall be considered misconduct in the practice of geology, pursuant to 24 **Del.C.** §3612(a)(7). The minimum penalty for unjustified noncompliance shall be a letter of reprimand and a $250.00 monetary penalty; however, the Board may impose any of the additional penalties specified in 24 **Del.C.** §3612.

6.15 Noncompliance - Extenuating Circumstances. A licensee applying for renewal may request an extension and be given up to an additional twelve (12) months to make up all outstanding required CEUs providing he/she can show good cause why he/she was unable to comply with such requirements at the same time he/she applies for renewal. The licensee must state the reason for such extension along with whatever documentation he/she feels is relevant. The Board shall consider requests such as extensive travel outside the United States, military service, extended illness of the licensee or his/her immediate family, or a death in the immediate family of the licensee. The written request for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period for which it is made. The Board shall issue an extension when it determines that one or more of these criteria have been met or if circumstances beyond the control of the licensee have rendered it impossible for the licensee to obtain the required CEUs. A licensee who has successfully applied for an extension under this paragraph shall make up all outstanding hours of continuing education within the extension period approved by the Board.

6.16 Appeal. Any licensee denied renewal pursuant to these rules and regulations may contest such ruling by filing an appeal of the Board's final order pursuant to the Administrative Procedures Act.

7 DE Reg. 1342 (04/01/04)
10 DE Reg. 567 (09/01/06)
11 DE Reg. 349 (09/01/07)
13 DE Reg. 682 (11/01/09)
16 DE Reg. 437 (10/01/12)
17 DE Reg. 991 (04/01/14)
19 DE Reg. 1104 (06/01/16)

7.0 ASBOG Examination

7.1 An applicant wishing to sit for any portion for the ASBOG examination required for a license as a Geologist shall make application in writing, on forms provided by the Board.

7.1.1 An applicant wishing to sit for the ASBOG Fundamentals of Geology (FG) Exam may do so provided they meet the minimum educational requirements set forth in 24 **Del.C.** §3608(a)(1). To apply, the applicant must fill out the request to sit for the ~~fundamentals~~ FG Exam application and submit their transcripts [to date] to the Board for approval. Once taken, the applicants score will be held on file indefinitely by ASBOG.

7.1.1.1 Notwithstanding the requirements of subsection 7.1.1, an applicant may take the FG Exam during the applicant's final semester in an accredited geosciences program leading to a degree according to the educational requirements set forth in 24 **Del.C.** §3608(a)(1). The results of the FG Exam will be disclosed to the applicant after receipt of the official transcript.

7.1.2 An applicant wishing to sit for the ASBOG Practice of Geology (PG) Exam must have acquired five (5) years of professional work experience as defined in Section 1.0 and must submit a full application for licensure to the Board for review. Approval to sit for the PG Exam will be dependent upon the applicant providing sufficient evidence, satisfactory, to the Board that he/she meets the qualifications for licensure set forth in 24 **Del.C.** §3608.

7.2 An applicant for licensure must have satisfactorily passed each part of the ASBOG examination with a scaled score of not less than 70%.

7.3 An applicant's approval to sit for either part of the ASBOG exam shall be valid for a period not to exceed two years.

7.4 An applicant who fails to pass either part of the ASBOG exam within two years shall re-apply as a new applicant pursuant to Section 2.0.

9 DE Reg. 456 (09/01/05)
16 DE Reg. 437 (10/01/12)
19 DE Reg. 1104 (06/01/16)

8.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

8.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of the Division of Professional Regulation or his/her designee of the report. If the Director of the Division of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designee(s).

8.2 The chairperson of the regulatory Board or that chairperson's designee(s) shall, within seven (7) days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

8.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within thirty (30) days following notification to the professional by the participating Board chairperson or that chairperson's designee(s).

8.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designee(s) or the Director of the Division of Professional Regulation or his/her designee may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designee and the chairperson of the participating Board or that chairperson's designee for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of the Division of Professional Regulation and the chairperson of the participating Board.

8.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designee(s) or the Director of the Division of Professional Regulation or his/her designee in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designee(s) shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate~~, as outlined in subsection 10.8 of this section~~.

8.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

8.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

8.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designee(s) or to the Director of the Division of Professional Regulation or his/her designee at such intervals as required by the chairperson of the participating Board or that chairperson's designee(s) or the Director of the Division of Professional Regulation or his/her designee, and such person making such report will not be liable when such reports are made in good faith and without malice.

8.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

8.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its

services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

8.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designee(s) or designates or to the Director of the Division of Professional Regulation or his/ her designee by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

8.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

8.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

8.8 The participating Board's chairperson, his/her designee(s) or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

8.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

8.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

8.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

8.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

11 DE Reg. 349 (09/01/07)
16 DE Reg. 437 (10/01/12)

9.0 Crimes substantially related to the practice of geology:

9.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of geology in the State of Delaware without regard to the place of conviction:

9.1.1 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.

9.1.2 Assault in the first degree. 11 **Del.C.** §613.

9.1.3 Assault by abuse or neglect. 11 **Del.C.** §615.

9.1.4 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.

9.1.5 Murder in the second degree. 11 **Del.C.** §635.

9.1.6 Murder in the first degree. 11 **Del.C.** §636.

9.1.7 Manslaughter. 11 **Del.C.** §632.

9.1.8 Rape in the third degree. 11 **Del.C.** §771.

9.1.9 Rape in the second degree. 11 **Del.C.** §772.

9.1.10 Rape in the first degree. 11 **Del.C.** §773.

9.1.11 Continuous sexual abuse of a child. 11 **Del.C.** §778.

9.1.12 Dangerous crime against a child. 11 **Del.C.** §779.

9.1.13 Kidnapping in the first degree. 11 **Del.C.** §783A.

9.1.14 Burglary in the first degree. 11 **Del.C.** §826.

9.1.15 Robbery in the first degree. 11 **Del.C.** §832.

9.1.16 Carjacking in the first degree. 11 **Del.C.** §836.

9.1.17 Identity theft. 11 **Del.C.** §854.

9.1.18 Forgery; felony. 11 **Del.C.** §861.

9.1.19 Possession of forgery devices. 11 **Del.C.** §862.

9.1.20 Tampering with public records in the first degree. 11 **Del.C.** §876.
9.1.21 Offering a false instrument for filing. 11 **Del.C.** §877.
9.1.22 Issuing a false certificate. 11 **Del.C.** §878.
9.1.23 Unlawful use of credit card; felony. 11 **Del.C.** §903.
9.1.24 Reencoder and scanning devices. 11 **Del.C.** §903A.
9.1.25 Criminal impersonation. 11 **Del.C.** §907
9.1.26 Criminal impersonation, accident related. 11 **Del.C.** §907A.
9.1.27 Criminal impersonation of a police officer. 11 **Del.C.** §907B.
9.1.28 Sexual exploitation of a child. 11 **Del.C.** §1108.
9.1.29 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.
9.1.30 Bribery. 11 **Del.C.** §1201**.**
9.1.31 Receiving a bribe. 11 **Del.C.** §1203.
9.1.32 Improper influence. 11 **Del.C.** §1207.
9.1.33 Official misconduct. 11 **Del.C.** §1211.
9.1.34 Profiteering. 11 **Del.C.** §1212.
9.1.35 Perjury in the second degree. 11 **Del.C.** §1222.
9.1.36 Perjury in the first degree. 11 **Del.C.** §1223.
9.1.37 Terroristic threatening of public officials or public servants. 11 **Del.C.** §1240.
9.1.38 Bribing a witness. 11 **Del.C.** §1261.
9.1.39 Bribe receiving by a witness. 11 **Del.C.** §1262.
9.1.40 Tampering with a witness. 11 **Del.C.** §1263.
9.1.41 Bribing a juror. 11 **Del.C.** §1264.
9.1.42 Bribe receiving by a juror. 11 **Del.C.** §1265.
9.1.43 Tampering with physical evidence. 11 **Del.C.** §1269.
9.1.44 Escape after conviction; Class B felony. 11 **Del.C.** §1253.
9.1.45 Assault in a detention facility; Class B felony. 11 **Del.C.** §1254.
9.1.46 Hate Crimes; Class A or B felony. 11 **Del.C.** §1304.
9.1.47 Adulteration; Class A felony. 11 **Del.C.** §1339.
9.1.48 Possession of a deadly weapon during the commission of a felony. 11 **Del.C.** §1447.
9.1.49 Possession of a firearm during the commission of a felony. 11 **Del.C.** §1447A.
9.1.50 Wearing body armor during the commission of a felony. 11 **Del.C.** §1449.
9.1.51 Organized crime and racketeering. 11 **Del.C.** §1504.
9.1.52 Victim or witness intimidation. 11 **Del.C.** §§3532 & 3533.
9.1.53 Prohibited acts A [delivery/manufacture/possession with intent to deliver narcotics (death); Class B. 16 **Del.C.** §4751.
9.1.54 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §47513A.

9.2 Crimes substantially related to the practice of geology shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this Section.

8 DE Reg. 1105 (02/01/05)
16 DE Reg. 437 (10/01/12)

10.0 Code of Ethics

10.1 General Provisions:

10.1.1 A geologist shall be guided by the highest standards of ethics, honesty, integrity, fairness, personal honor, and professional conduct.

10.1.2 A geologist shall not knowingly permit the publication or use of his/her work or name in association with any unsound or illegitimate venture.

10.1.3 A geologist shall not give a professional opinion or make a report without being as completely informed as might be reasonably expected considering the purpose for which the opinion or report is desired. All assumptions on which the results of the report or opinion are based shall be set forth in the report or opinion.

10.1.4 A geologist shall be as objective as possible in any opinion, report or other communication he/ she makes which will be used to induce participation in a venture. He/she shall not make sensational, exaggerated, or unwarranted statements. He/she shall not misrepresent data, omit relevant data, or fail to mention the lack of data that might affect the results or conclusions of such opinion, report or communication.

10.1.5 A geologist shall not falsely or maliciously attempt to injure the reputation or business of another geologist.

10.1.6 A geologist shall freely give credit for work done by others. A geologist shall not knowingly accept credit rightfully due to others or otherwise indulge in plagiarism in oral and written communications.

10.1.7 A geologist, having knowledge of the unethical or incompetent practice of another geologist, shall avoid association with that geologist in professional work. If a geologist acquires tangible evidence of the unethical or incompetent practice of another geologist, he/she shall submit the evidence to the Board.

10.1.8 A geologist shall not use the provisions of 24 **Del.C.** Ch. 36 or the Board's regulations to maliciously prosecute, harass or otherwise burden another geologist with unfounded or false charges.

10.1.9 A geologist shall endeavor to cooperate with others in the profession in encouraging the ethical dissemination of geological knowledge especially when it is in the public interest.

10.1.10 A geologist shall not engage in conduct that involves fraud, dishonesty, deceit or misrepresentation either directly or through the action of others.

10.1.11 A geologist shall not discriminate against any person on the basis of race, creed, sex or national origin.

10.1.12 A geologist shall not aid any person in the unauthorized practice of geology.

10.1.13 A geologist shall not practice geology in a jurisdiction where that practice would violate the standards applicable to geologists in the jurisdiction.

10.2 Provisions Concerning Monetary Matters

10.2.1 A geologist having, or expecting to have, any interest in a project or property on which he/she performs work, must make full disclosure of the interest to all parties concerned with the project or property.

10.2.2 A geologist's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

10.2.2.1 the time and labor required, the novelty and difficulty of the work involved, and the skill requisite to perform the service properly;

10.2.2.2 the likelihood, if apparent to the client or employer, that the acceptance of the particular employment will preclude other employment of the geologist;

10.2.2.3 the fee customarily charged in the area for similar geological services;

10.2.2.4 the total value of the project and the results obtained;

10.2.2.5 the time limitations imposed by the client or by the circumstances;

10.2.2.6 the nature and length of the professional relationship with the client;

10.2.2.7 the experience, reputation, and ability of the geologist or geologists performing the service; and

10.2.2.8 whether the fee is fixed or contingent.

10.2.3 When the geologist has not regularly performed services for the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing services.

10.2.4 A fee may be contingent on the outcome of a project for which geological services are rendered, except for a project where a contingent fee is prohibited by law or professional ethics. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined.

10.2.5 A division of fee between geologist and other professionals who are not associated may be made only if:

10.2.5.1 the division is in proportion to the services performed by each geologist or professional or, by written agreement with the client. Each geologist or professional assumes joint responsibility for the services performed;

10.2.5.2 the client is advised of and does not object to the participation of the geologist and/or other professionals involved; and

10.2.5.3 the total fee is reasonable.

10.2.6 A geologist shall not accept a concealed fee for referring an employer or client to a specialist or for recommending geological services other than his/her own. A geologist who engages or advises a client or employer to engage collateral services shall use his/her best judgement to ensure the collateral services are used prudently and economically.

10.3 Provisions Concerning The Relationship With The Client

10.3.1 A geologist shall not undertake, or offer to undertake, any type of work with which he/she is not familiar or competent by reason of lack of training or experience unless he/she makes full disclosure of his/her lack of training or experience to the appropriate parties prior to undertaking the work.

10.3.2 A geologist shall protect to the fullest extent the employer or client's interest, so far, as is consistent with the public welfare and professional obligations and ethics.

10.3.3 A geologist who finds that an obligation to an employer or client conflicts with professional obligations or ethics should have the objectionable conditions changed or terminate the services.

10.3.4 A geologist shall not use either directly or indirectly any proprietary information which is developed or acquired as a result of working for an employer or client in any way that conflicts with the employer's or client's interest and without the consent of the employer or client.

10.3.5 A geologist who has worked or performed a service for any employer or client shall not use the information peculiar to that employment and which is gained in such employment for his/her own personal profit unless he/she is given written permission to do so or until the employer, client, or their successor's interest in such information has changed in such a way that the information is valueless to him/her or of no further interest to him/her.

10.3.6 A geologist shall not divulge confidential information. This does not relieve a licensed geologist from the duty to report conditions required by law or regulation.

10.3.7 A geologist retained by a client shall not accept, without the client's consent, an engagement by another if there is a possibility of a conflict between the interests of the two clients.

10.3.8 A geologist shall advise an employer or client to retain, and cooperate with, other experts and specialists whenever the employer's or client's interests are best served by such services.

10.3.9 A geologist shall not terminate services to an employer or client when it will cause immediate jeopardy to the employer's or client's interests. The geologist shall attempt to give due notice of termination; however, the geologist may terminate services under any of the following circumstances:

10.3.9.1 failure to receive compensation or good evidence indicating compensation will not be received for services performed;

10.3.9.2 when continued employment will result in a violation of 24 **Del.C.** Ch. 36 or other illegality;

10.3.9.3 when continued employment will result in sickness or injury to the geologist or his/her dependents.

10.3.10 A geologist shall not use illegal drugs. A geologist shall also not abuse alcoholic beverages, drugs, narcotics, or controlled substances with or without a prescription such that it impairs his/her ability to perform his/her work.

7 DE Reg. 1342 (04/01/04)
8 DE Reg. 1105 (02/01/05)
9 DE Reg. 456 (09/01/05)
10 DE Reg. 567 (09/01/06)
11 DE Reg. 349 (09/01/07)
13 DE Reg. 682 (11/01/09)
16 DE Reg. 437 (10/01/12)
17 DE Reg. 991 (04/01/14)
19 DE Reg. 1104 (06/01/16)
20 DE Reg. 824 (04/01/17) (Final)