

**DEPARTMENT OF ADMINISTRATIVE SERVICES  
DIVISION OF PROFESSIONAL REGULATION  
3600 Board of Geologists**

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

**FINAL**

**ORDER**

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on January 14, 2005 at a scheduled meeting of the Delaware Board of Geologists to receive comments regarding proposed Regulation 9.0. The proposed regulation identifies crimes substantially related to the practice of geology as mandated by SB 229 enacted by the 142<sup>nd</sup> General Assembly. The proposed regulation was published in the *Register of Regulations*, Vol. 8, Issue 6, December 1, 2004.

**Background**

Under Title 24, Chapter 36, as amended by SB 229, one of the qualifications for licensure is that the applicant “shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to the practice of geology. Applicants who have criminal convictions records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of geology.” 24 Del.C. §3608(a)(6). In addition, a licensee shall be subject to disciplinary action, if, after a hearing, the Board finds that the licensed practitioner “has been convicted of a crime that is substantially related the practice of geology.” 24 Del.C. §3612(a)(3).

“‘Substantially related’ means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of geology. 24 Del.C. §3602(7).

The Board is charged by SB 229 to “promulgate regulations specifically identifying those crimes, which are substantially related to the practice of geology.” 24 Del.C. § 3606(b).

**Summary of the Evidence and Information Submitted**

No written comments were received. No members of the public attended the hearing.

**Findings of Fact with Respect to the Evidence and Information Submitted**

The Board carefully reviewed and considered the crimes presented as a compilation of crimes extracted from the *Delaware Code*. The overarching concern of the Board was the safety of the public. The “primary objective of the Board of Geologists, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of the services regulated by this chapter, from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered.” 24 Del.C. §3601. The practice of geology is defined as including “consultation, research, investigation, evaluations, mapping, sampling, planning of geologic projects and embracing such geological services in connection with any public or private utilities, structures, roads, building, processes, works or projects.” 24 Del.C. §3602(5). A geologist interacts with clients and other individuals in any number of settings including but not limited to offices, research labs, schools, and field settings. Geologists also interact with regulatory officials. Geologists prepare reports and findings that are relied upon by private and government entities and have access to confidential information. Geologists may also be called upon to offer expert witness testimony.

The Board finds that the crimes in the proposed rule are substantially related to fitness or ability to perform 1 or more of the duties and responsibilities of geologist in that they involve: the use of physical violence or force, or the threat thereof, toward or upon the person of another; dishonesty, or false or fraudulent conduct; mistreatment or abuse of children; offenses against the public administration including but not limited to bribery and perjury; and those drug offenses involving delivery, manufacture and trafficking which evidence a disregard for the safety of others.

### Decision and Effective Date

The Board hereby adopts the changes to Regulation 9.0 to be effective 10 days following publication of this order in the *Register of Regulations*.

### Text and Citation

The text of the revised rules remains as published in *Register of Regulations*, Vol. 8, Issue 6, December 1, 2004, as attached hereto.

**SO ORDERED** this 14th day of January, 2005.

#### STATE BOARD OF GEOLOGISTS

William S. Schenck, President, Professional Member  
Steven Smailer, Vice-President, Professional Member  
Erik Trinkle, Secretary, Professional Member  
Jerome Cooper, Public Member  
Dana Long, Public Member  
Theodore Ressler, Public Member  
Stephen Williams, Professional Member

### **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 Rape in the third degree. 11 Del.C. §771.
- 9.1.8 Rape in the second degree. 11 Del.C. §772.
- 9.1.9 Rape in the first degree. 11 Del.C. §773.
- 9.1.10 Continuous sexual abuse of a child. 11 Del.C. §778.
- 9.1.11 Dangerous crime against a child. 11 Del.C. §779.
- 9.1.12 Kidnapping in the first degree. 11 Del.C. §783A.
- 9.1.13 Burglary in the first degree. 11 Del.C. §826.
- 9.1.14 Robbery in the first degree. 11 Del.C. §832.
- 9.1.15 Carjacking in the first degree. 11 Del.C. §836.
- 9.1.16 Identity theft. 11 Del.C. §854.
- 9.1.17 Forgery; felony. 11 Del.C. §861.
- 9.1.18 Possession of forgery devices. 11 Del.C. §862.
- 9.1.19 Tampering with public records in the first degree. 11 Del.C. §876.
- 9.1.20 Offering a false instrument for filing. 11 Del.C. §877.
- 9.1.21 Issuing a false certificate. 11 Del.C. §878.
- 9.1.22 Unlawful use of credit card; felony. 11 Del.C. §903.
- 9.1.23 Reencoder and scanning devices. 11 Del.C. §903A.
- 9.1.24 Criminal impersonation. 11 Del.C. §907.
- 9.1.25 Criminal impersonation, accident related. 11 Del.C. §907A.
- 9.1.26 Criminal impersonation of a police officer. 11 Del.C. §907B.
- 9.1.27 Sexual exploitation of a child. 11 Del.C. §1108.
- 9.1.28 Unlawfully dealing in child pornography. 11 Del.C. §1109.
- 9.1.29 Bribery. 11 Del.C. §1201.

- 9.1.30 Receiving a bribe. 11 Del.C. §1203.
- 9.1.31 Improper influence. 11 Del.C. §1207.
- 9.1.32 Official misconduct. 11 Del.C. §1211.
- 9.1.33 Profiteering. 11 Del.C. §1212.
- 9.1.34 Perjury in the second degree. 11 Del.C. §1222.
- 9.1.35 Perjury in the first degree. 11 Del.C. §1223.
- 9.1.36 Terroristic threatening of public officials or public servants. 11 Del.C. §1240.
- 9.1.37 Bribing a witness. 11 Del.C. §1261.
- 9.1.38 Bribe receiving by a witness. 11 Del.C. §1262.
- 9.1.39 Tampering with a witness. 11 Del.C. §1263.
- 9.1.40 Bribing a juror. 11 Del.C. §1264.
- 9.1.41 Bribe receiving by a juror. 11 Del.C. §1265.
- 9.1.42 Tampering with physical evidence. 11 Del.C. §1269.
- 9.1.43 Escape after conviction; Class B felony. 11 Del.C. §1253.
- 9.1.44 Assault in a detention facility; Class B felony. 11 Del.C. §1254.
- 9.1.45 Hate Crimes; Class A or B felony. 11 Del.C. §1304.
- 9.1.46 Adulteration; Class A felony. 11 Del.C. §1339.
- 9.1.47 Possession of a deadly weapon during the commission of a felony. 11 Del.C. §1447.
- 9.1.48 Possession of a firearm during the commission of a felony. 11 Del.C. §1447A.
- 9.1.49 Wearing body armor during the commission of a felony. 11 Del.C. §1449.
- 9.1.50 Organized crime and racketeering. 11 Del.C. § 1504.
- 9.1.51 Victim or witness intimidation. 11 Del.C. §§3532 & 3533.
- 9.1.52 Prohibited acts A [delivery/manufacture/possession with intent to deliver narcotics (death); Class B. 16 Del.C. §4751.
- 9.1.53 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 rule.

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Geologists is available at: <http://www.professionallicensing.state.de.us/boards/geology/index.shtml>**

**8 DE Reg. 1105 (2/1/05)**