

Document: Proposed Rule, **Register Page Number:** 26 IR 1598

Source: February 1, 2003, Indiana Register, Volume 26, Number 5

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register . However, this document is unofficial.

TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

Proposed Rule LSA Document #02-328

DIGEST

Amends 305 IAC 1 by adding rule 5 to establish a code of ethics for licensed professional geologists. Also includes amendments to provide that fees are set by board resolution not directly by rule. Clarifies that certificates are reinstated by the board not the Indiana geological survey. Provides for annual rather than semiannual publication of a roster of licensed geologists. Makes other technical changes. Effective 30 days after filing with the secretary of state.

305 IAC 1-2-6

305 IAC 1-4-2

305 IAC 1-3-4

305 IAC 1-5

305 IAC 1-4-1

SECTION 1. 305 IAC 1-2-6 IS AMENDED TO READ AS FOLLOWS:

305 IAC 1-2-6 “Professional geological work” defined

Authority: IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 6. (a) “Professional geological work” means the application of principles, theories, and laws of geology, along with the body of knowledge encompassed by the science at an advanced and skillful level requiring experience in the geological profession and the capability of interpretation of geological data.

(b) Examples of activities that may qualify as professional geological work are consultation, research, evaluation, or planning of geological systems, works, or projects for one (1) or more of the following:

- (1) Land reclamation.
- (2) Construction.
- (3) Location, prediction of the location, evaluation, or development or production of petroleum, natural gas, coal, metallic and nonmetallic minerals, ground water, and other geological resources.
- (4) Assessment of geologic hazards, such as landslides, earthquakes, and land subsidence.
- (5) Environmental geology.
- (6) Hydrogeology.

(c) Examples of activities that **may cannot** qualify as professional geological work are the following:

- (1) Activities before an applicant completes the minimum education requirements under 305 IAC 1-3-2(c).
- (2) Participation as a laboratory assistant, field assistant, or technician.
- (3) Participation as an associate instructor or research assistant while enrolled in an undergraduate or graduate studies program.
- (4) Participation as an engineer, driller, well logger, soil scientist, archeologist, or profession other than geology.

(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-2-6; filed Mar 8, 1999, 5:18 p.m.: 22 IR 2215; errata filed Jul 21, 1999, 11:30 a.m.: 22 IR 3937)

SECTION 2. 305 IAC 1-3-4 IS AMENDED TO READ AS FOLLOWS:

305 IAC 1-3-4 Issuance of a renewal certificate

Authority: IC 25-17.6-3-12

Affected: IC 4-21.5-3-4; IC 25-17.6

Sec. 4. (a) ~~A request for a renewal license is timely if made by a licensed professional geologist at least thirty (30) days before expiration.~~ A ~~license certificate~~ expires three (3) years after the date of issuance. A request for renewal must be accompanied by a fee of ~~sixty dollars (\$60)~~ **to be determined by the board** in the form of a check or money order payable to the "Indiana Geological Survey". The renewal will be issued unless the board determines the applicant no longer qualifies as a licensed professional geologist under IC 25-17.6 and this article. IC 4-21.5-3-4(d) applies to this subsection.

(b) The survey shall mail a renewal notice to each licensed professional geologist at least sixty (60) days before the expiration of the ~~license certificate~~. The notice shall be directed to the most recent mailing address provided to the survey by the licensed professional geologist.

(c) If the renewal fee is not paid when due, the ~~license certificate~~ is invalidated. The name of the holder shall be deleted from future rosters of the licensed professional geologists unless:

- (1) a late renewal fee of ~~seventy-five dollars (\$75)~~ is paid by the applicant before the expiration of two (2) years from the date of its invalidation; ~~and or~~
- (2) the certificate is reinstated by the ~~survey~~ **board**.

(d) If the renewal fee is not paid within two (2) consecutive years of the invalidation of a certificate, a person may seek reinstatement as a licensed professional geologist only upon successful completion of section 2 of this rule. (*Indiana Board of Licensure for Professional Geologists; 305 IAC 1-3-4; filed Mar 8, 1999, 5:18 p.m.: 22 IR 2218; errata filed Jul 21, 1999, 11:30 a.m.: 22 IR 3937; filed Mar 6, 2000, 7:58 a.m.: 23 IR 1621*)

SECTION 3. 305 IAC 1-4-1 IS AMENDED TO READ AS FOLLOWS:

305 IAC 1-4-1 Seal and responsibilities of licensed professional geologist for documents

Authority: IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 1. (a) A licensed professional geologist may purchase a seal from a private vendor that bears the geologist's name, ~~license certificate~~ number, and the legend "~~Licensed~~" professional geologist". A seal cannot be less than one and five-eighths (1 $\frac{5}{8}$) inches or more than one and seven-eighths (1 $\frac{7}{8}$) inches in outside diameter and shall conform with the following design:



(b) The seal may be embossed or applied by a rubber stamp. The seal may have a milled edge, as illustrated in subsection (a), or two (2) concentric circles with the outer and inner circles corresponding with the respective edges of the milling.

(c) The seal shall be affixed to a document or ~~license certificate~~ only if:

- (1) the ~~license certificate~~ is current and has not been suspended or revoked; and
- (2) the document or instrument is created by the licensed professional geologist or by persons who are regularly employed or directly supervised subordinates of the licensed professional geologist.

(d) A licensed professional geologist shall cause to be legible the placement of a seal on a document or instrument.

(e) A licensed professional geologist is responsible for the professional work on any plans, specifications, plats, reports, or other documents to which the seal or signature of the licensed professional geologist is affixed. A licensed professional geologist who affixes a seal or signature to a document without understanding the contents of the document, violates the code of ethics. (*Indiana Board of Licensure for Professional Geologists; 305 IAC 1-4-1; filed Mar 8, 1999, 5:18 p.m.: 22 IR 2218; errata filed Jul 21, 1999,*

11:30 a.m.: 22 IR 3937; filed Mar 6, 2000, 7:58 a.m.: 23 IR 1621)

SECTION 4. 305 IAC 1-4-2 IS AMENDED TO READ AS FOLLOWS:

305 IAC 1-4-2 Publication of roster; responsibility of a licensed professional geologist to maintain a current address with the Indiana geological survey

Authority: IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 2. (a) The survey shall, ~~at least every other~~ calendar year, publish a roster showing the names and addresses of the licensed professional geologists.

(b) Each licensed professional geologist is responsible for maintaining with the survey a current mailing address. A notification made by the board under IC 25-17.6 and this article is complete if delivered to the address provided by the licensed professional geologist under this subsection. (*Indiana Board of Licensure for Professional Geologists; 305 IAC 1-4-2; filed Mar 8, 1999, 5:18 p.m.: 22 IR 2219; errata filed Jul 21, 1999, 11:30 a.m.: 22 IR 3937*)

SECTION 5. 305 IAC 1-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Code of Ethics

305 IAC 1-5-1 Professional conduct

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 1. A licensed professional geologist must be guided by the highest standards of honesty, integrity, impartiality, and professional conduct. (*Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-1*)

305 IAC 1-5-2 Public interest

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 2. (a) A licensed professional geologist must uphold the public health, safety, and welfare in the performance of professional services and avoid the appearance of impropriety.

(b) A licensed professional geologist shall promote public awareness of the effects of geology and geological processes on the quality of life.

(c) A licensed professional geologist shall not only abide by the code of ethics but encourage others under the geologist's supervision or direction (whether licensed or not) to abide by this code. (*Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-2*)

305 IAC 1-5-3 Legal compliance

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 3. (a) A licensed professional geologist must observe and comply with the requirements and intent of all applicable common law, federal and state constitutional provisions, federal and state statutes, regulations, rules, and local ordinances.

(b) A licensed professional geologist must not knowingly participate in any illegal activities, or knowingly permit the publication of his or her reports, maps, or other documents for illegal purposes.

(c) A licensed professional geologist must not accept payment, gift, or other valuable consideration that would appear to influence a decision made on behalf of the public by the licensed professional geologist acting in a position of public trust.

(d) If a licensed professional geologist becomes aware of a decision or action by an employer, client, or colleague that

violates any law or regulation, the licensed professional geologist must advise against such action. The licensed professional geologist must advise the appropriate public officials responsible for the enforcement of such law or regulation when such violation appears to materially affect the public health, safety, or welfare.

(e) A licensed professional geologist must not aid any person in the unauthorized practice of geology. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-3)*

305 IAC 1-5-4 Integrity

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 4. (a) A licensed professional geologist must be accurate, truthful, and candid in all communications with the public.

(b) A licensed professional geologist must not knowingly engage in false or deceptive advertising, or make false, misleading, or deceptive representations or claims in regard to the profession of geology or which concerns his or her own professional qualifications or abilities or those of other geologists.

(c) A licensed professional geologist must not issue statements or information that the geologist knows are false or misleading even though directed to do so by an employer or client.

(d) A licensed professional geologist must avoid making sensational, exaggerated, or unwarranted statements that may mislead or deceive members of the public or any public body.

(e) A licensed professional geologist, acting in the position of public trust, must exercise authority impartially and must not seek to use the authority for personal profit or to secure any competitive advantage.

(f) A licensed professional geologist, when serving as an expert witness, shall express an opinion only when having an adequate knowledge of the facts of the issue 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. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-4)*

305 IAC 1-5-5 Conflicts of interest

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 5. (a) A licensed professional geologist must disclose any actual or potential conflicts of interest that may affect their ability to serve an employer or client faithfully.

(b) A licensed professional geologist must disclose to a prospective employer or client the existence of any owned or controlled mineral or other interest that may, either directly or indirectly, have a pertinent bearing on such employment.

(c) A licensed professional geologist having or expecting to have beneficial interest in a property on which the licensed professional geologist is reporting must state in the report the existence of the interest or expected interest.

(d) A licensed professional geologist employed or retained by one (1) employer or client must not accept, without that employer's or client's written consent, an engagement by another if the interests of the two (2) are in any manner conflicting. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-5)*

305 IAC 1-5-6 Obligations to employers and clients

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 6. (a) A licensed professional geologist must 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 licensed professional geologist's legal, professional, and ethical obligations.

(b) A licensed professional geologist who has made an investigation for an employer or client must not seek to profit economically from the information gained or resources used without written permission of the employer or client unless it is clear that there can no longer be a conflict of interest with the original employer or client.

(c) A licensed professional geologist 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. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-6)*

305 IAC 1-5-7 Professional and ethical obligations

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 7. (a) A licensed professional geologist must serve employers and clients faithfully and competently within the geologist's overall professional and ethical obligations.

(b) A licensed professional geologist shall perform professional services or issue professional advice that is only within the scope of the education and experience of the licensed professional geologist and the licensed professional geologist's professional associates, consultants, or employees, and must advise the employer or client if any professional advice is outside of the licensed professional geologist's personal expertise.

(c) A licensed professional geologist must not give a professional opinion or submit a report without being thoroughly informed as might be reasonably expected, considering the purpose for which the opinion or report is requested.

(d) A licensed professional geologist must report all assumptions on which the results of a report or opinion are based.

(e) A licensed professional geologist must not make unsubstantiated statements in opinions and reports.

(f) A licensed professional geologist must not knowingly or purposefully misrepresent or omit relevant data, nor fail to mention a lack of data that might affect the results or conclusions of an opinion or report.

(g) A licensed professional geologist must engage, or advise an employer or client to engage, and cooperate with other experts and specialists whenever the employer's or client's interests would be best served. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-7)*

305 IAC 1-5-8 Professional courtesy

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 8. (a) A licensed professional geologist must respect the rights, interests, and contributions of their professional colleagues and must be accurate, truthful, and candid in all communications with others regarding professional colleagues.

(b) A licensed professional geologist must:

- (1) give due credit for work done by others in the course of a professional assignment; and
- (2) not knowingly accept credit due another.

(c) Statements regarding opinions must be restricted to and based on logical and scientific principles and must be made in a respectful and professional manner. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-8)*

305 IAC 1-5-9 Continuing education

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 9. A licensed professional geologist must strive to improve professional knowledge and skills and work toward the advancement of geological education, research, training, and practice. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-9)*

305 IAC 1-5-10 Equal opportunity

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 10. A licensed professional geologist must not discriminate against any person on the basis of race, creed, gender, age, disability, or national origin. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-10)*

305 IAC 1-5-11 Obligation to report violations

Authority: IC 25-17.6-3-3; IC 25-17.6-3-12

Affected: IC 25-17.6

Sec. 11. A licensed professional geologist having knowledge of a violation of this article by another licensed professional geologist must bring substantiated evidence of the violation to the attention of the board, which is responsible for disciplinary procedures. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-5-11)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on February 24, 2003 at 10:30 a.m., at the Indiana Geological Survey, 611 North Walnut Grove, Room S-201, Bloomington, Indiana the Indiana Board of Licensure for Professional Geologists will hold a public hearing on proposed amendments to establish a code of ethics for licensed professional geologists. Also includes amendments to provide that fees are set by board resolution not directly by rule. Clarifies that certificates are reinstated by the board not the Indiana geological survey. Provides for annual rather than semiannual publication of a roster of licensed geologists. Makes other technical changes. Copies of these rules are now on file at the Indiana Geological Survey, 611 North Walnut Street, Room S-201, Bloomington, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John R. Hill
Associate Director
Indiana Board of Licensure for Professional Geologists