



**Certification Page  
Regular and Emergency Rules**

<b>1. General Information</b>		
a. Agency/Board Name <i>See attached list for references</i> <b>WYOMING BOARD OF PROFESSIONAL GEOLOGISTS</b>		
b. Agency/Board Address 500 South Third Street	c. Agency/Board City Laramie	d. Agency/Board Zip Code 82070
e. Name of Contact Person Ms. Geri L. Allen	f. Contact Telephone Number (307) 742-1118	
g. Contact Email Address geri.allen@wyo.gov	h. Adoption Date: August 23, 2012	
i. Program(s) <i>See attached list for references</i> General agency, board or commission rules		
<b>2. Rule Type and Information</b>		
a. These rules are: <input type="checkbox"/> Emergency Rules <i>(After completing all of Section 2, proceed to Section 5 below)</i> <input checked="" type="checkbox"/> Regular Rules		
b. Choose all that apply: <input type="checkbox"/> New Rules* <input checked="" type="checkbox"/> Amended Rules <input checked="" type="checkbox"/> Repealed Rules <i>* "New" rules means the first set of regular rules to be promulgated by the Agency after the Legislature adopted a new statutory provision or significantly amended an existing statute.</i>		
If "New," provide the Enrolled Act number and year enacted:		
c. Provide the Chapter Number, and Short Title of Each Chapter being Created/Amended/Repealed <i>(if more than 5 chapters are being created/amended/repealed, please use the Additional Rule Information form and attach it to this certification)</i>		
Chapter Number: 1	Short Title: General Provisions	
Chapter Number: 2	Short Title: Organization, Responsibilities, and Duties of the Board	
Chapter Number: 3	Short Title: Licensure Provisions	
Chapter Number: 4	Short Title: Regulatory Provisions	
Chapter Number: 5	Short Title: Application, Complaint, and Hearing Procedures	
d. <input checked="" type="checkbox"/> The Statement of Reasons is attached to this certification.		
e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:		
<b>3. State Government Notice of Intended Rulemaking</b>		
a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State: <span style="float: right;">06/28/2012</span>		
b. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the Legislative Service Office: <span style="float: right;">06/28/2012</span>		
c. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the Attorney General: <span style="float: right;">06/22/2012</span>		

**4. Public Notice of Intended Rulemaking**

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.  Yes  No  N/A

b. A public hearing was held on the proposed rules.  Yes  No

If "Yes:"	Date:	Time:	City:	Location:

**5. Final Filing of Rules**

a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature: 08/24/2012

b. Date on which final rules were sent to the Legislative Service Office: 08/24/2012

c. Date on which a PDF of the final rules was electronically sent to the Secretary of State: 08/24/2012

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	<i>Geri L. Allen</i>
Printed Name of Signatory	Geri L. Allen
Signatory Title	Executive Director
Date of Signature	August 24, 2012

**7. Governor's Certification**

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

**Distribution List:**

**Attorney General**

1. Statement of Reasons;
2. Original Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore; and
5. Memo to Governor documenting emergency (emergency rules).

**LSO**

1. Statement of Reasons;
2. Copy of Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore;
5. Electronic copy of rules: clean and strike/underscore; and
6. Memo to Governor documenting emergency (emergency rules).

**SOS**

1. PDF of clean copy of rules; and
2. Hard copy of Certification Page as delivered by the AG.





# WYOMING BOARD OF PROFESSIONAL GEOLOGISTS

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## PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS OF THE WYOMING BOARD OF PROFESSIONAL GEOLOGISTS

### STATEMENT OF PRINCIPAL REASONS *JUNE 2012*

The Wyoming Board of Professional Geologists is proposing to amend its rules to provide:

- ♦ Clarification of existing rules through definition and clear language;
- ♦ Inclusion of the requirements under 8 U.S.C.A. § 1621 (c)(1)(A) for proof of lawful presence (Chapter 2);
- ♦ Clarification of education requirements;
- ♦ A “retired” option for licensees (Chapter 3);
- ♦ Clarification of licensure by exam record in another jurisdiction;
- ♦ An option for electronic signing/sealing of documents;
- ♦ Standardization of procedures relating to applications, complaints and hearings; and
- ♦ Correction of punctuation, grammatical, or typographic errors that were missed in previous reviews;
- ♦ Chapters V and VI are repealed and replaced by new Chapter 5.

As required by W.S. § 16-3-103(a)(i)(G), the proposed rules meet minimum substantive state statutory requirements.

**THE**  
**RULES AND REGULATIONS**  
  
of the  
  
**WYOMING BOARD OF**  
**PROFESSIONAL GEOLOGISTS**

**PROPOSED RULE CHANGES ADOPTED**

*August 23, 2012*

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## **CHAPTER 1 GENERAL PROVISIONS**

**Section 1. Authority.** The Wyoming Board of Professional Geologists, hereinafter called the "Board", is created by the Wyoming Geologists Practice Act, W.S. 33-41-101 through 33-41-121. Pursuant to W.S. 33-41-106(a), the Board shall from time to time adopt rules and regulations, consistent with the laws of the State of Wyoming, which the Board deems necessary for the performance of its duties.

**Section 2. Definitions.** The definitions set out in W.S. 33-41-101 through 33-41-121 apply to these rules and regulations. In addition, the following definitions of terms shall apply:

(a) "The Act" refers to the Wyoming Geologists Practice Act, W.S. 33-41-101 through 33-41-121.

(b) "Bachelors degree in geology" means a degree granted by an accredited institution of higher learning approved by the Board following completion of a four (4) year undergraduate curriculum with a major in geology that includes a minimum of thirty (30) semester or forty-five (45) quarter hours in geology course work. At least twenty-four (24) of the semester hours or thirty-six (36) of the quarter hours in geology should be in at least five (5) of the following subject areas:

(i) Economic geology, engineering geology, environmental geology, field geology, geochemistry, geomorphology, geophysics, hydrogeology, mineralogy, paleontology, petrology, sedimentology, stratigraphy, or structural geology.

(c) "Board" means the Wyoming Board of Professional Geologists within the department of administration and information.

(d) "Certification" includes the Board's process of granting, denying, renewing, revoking, or suspending certification as a geologist-in-training.

(e) "Good professional character and repute" means that an applicant for licensure or certification:

(i) Has not been convicted of a felony within five (5) years of applying for licensure;

(ii) Has not been convicted of any crime which discredits the profession of geology within five (5) years of applying for licensure;

(iii) Is not currently incarcerated in a penal institution;

(iv) Has not engaged in fraud or misrepresentation in connection with his or her application or related examination;

(v) If previously licensed as a professional geologist or certified as a geologist-in-training in Wyoming, another state, or foreign country, has not had that license or certification canceled, revoked, suspended, or not renewed for cause within five (5) years of applying for licensure;

(vi) Has not falsely claimed to be a licensed professional geologist or a certified geologist-in-training in Wyoming, another state, or foreign country within five (5) years of applying for licensure or certification; or,

(vii) Has not engaged in other misconduct.

(f) "Expired license" means a license which has not been renewed before midnight on its date of expiration.

(g) "Incompetence" means to lack the professional qualifications, experience, or education to undertake a professional geologic engagement or assignment.

(h) "License" refers to the Board's document of authorization to use the title of "professional geologist", pursuant to the Act.

(i) "Licensee" means an individual who has been granted a license to practice geology with the title of "professional geologist", pursuant to the Act.

(j) "Licensure" includes the Board's process of granting, denying, renewing, revoking, or suspending of a license.

(k) "Negligence" means a substantial deviation in professional practice from the standards of professional practice exercised by members of the geologic profession, or a substantial deviation from any technical standards issued by a nationally and/or state-recognized professional organization comprised of members of the geologic profession, or a substantial deviation from requirements contained in state laws, Board regulations, and local ordinances or regulations related to the practice of geology.

(l) "Other misconduct" means:

(i) An adverse civil adjudication involving dishonesty, gross negligence, or incompetence related to the practice of geology;

(ii) Knowingly acting, or failing to act, in violation of any provisions of the Act or rules of the Board; any Federal or state law or regulation; or any local ordinance, regulation, or code related to the practice of geology; or

(iii) Use of false or misleading advertising and/or other deceptive practices.

(m) "Professional reference" means a reference provided by a professional geologist or qualified geologist as defined by W.S. 33-41-102(a)(ix), or (x), or other professional who has similar experience, education, and professional character and repute in a related field.

(n) "Responsible charge" means having full personal responsibility for the correctness and completeness of the geological work product, or portion thereof, sealed, signed and dated by the licensee.

(o) "Retired" status means a licensee who:

(i) Is no longer engaged in the practice of geology before the public as defined in W.S. §33-41-102(a)(viii); and

(ii) has maintained an active license for a minimum of ten (10) years.

(p) "Specialty" means any sub-discipline of geology which has been recognized by the Board for the purpose of specialty licensure.

(q) "Thorough technical review" means that the work product has received a thorough technical review and has been critically examined and evaluated for compliance with appropriate professional and scientific standards by a licensee, and the licensee accepts responsibility for the work product.

(r) "Trainee" means an individual who has been certified as a geologist-in-training, pursuant to the Act.

**CHAPTER 2**  
**ORGANIZATION, RESPONSIBILITIES, AND DUTIES OF THE BOARD**

**Section 1. Election of Officers.** The Board shall annually elect from its own membership a chairperson, a vice-chairperson, and a secretary-treasurer who shall assume the duties of their offices at the close of the meeting at which they are elected and serve for a term of one (1) year. If an officer resigns or vacates his or her position prior to the expiration of his or her term, the Board may elect a replacement to serve the remainder of the term.

**Section 2. Duties of Officers.**

(a) The chairperson shall set the time and place of all meetings. When present, the chairperson shall preside at all meetings although at contested hearings, the chairperson may designate an attorney, another Board officer, or a hearing officer to preside at the hearing. The chairperson shall appoint all committees and perform all other duties ordinarily pertaining to the office of chairperson. The chairperson shall assist the secretary-treasurer in matters of advice and in preparation of correspondence and reports as agreed upon by the Board.

(b) The vice-chairperson shall perform all the duties prescribed for the chairperson in the absence of the chairperson. The vice-chairperson shall assist the secretary-treasurer in matters of advice and in preparation of correspondence and reports as agreed upon by the Board.

(c) The secretary-treasurer shall, with the assistance of such staff as may be required, prepare the annual report of the Board, cause the same to be distributed as the Board may direct, conduct and care for all the correspondence of the Board, sign and keep the minutes of all meetings, keep all books and records as herein provided, sign fiscal documents, and assure that meetings are properly noticed. The secretary-treasurer shall receive all monies due to the Board, and assure they are deposited with the State Treasurer.

**Section 3. Meetings of the Board.** The Board shall hold at least four (4) regular business meetings each year. The chairperson, the vice-chairperson, or any four (4) members may call other meetings to conduct the business of the Board. All meetings shall be open to the public and shall be advertised in a paper in general circulation in Wyoming at least ten (10) calendar days prior to a meeting date. The Board may go into executive session when there is a need to protect information deemed confidential, pursuant to Chapter VII of these rules; to W.S. 16-4-201 through 16-4-205, Public Records; or as otherwise provided by law.

**Section 4. Quorum.** Four (4) members shall constitute a quorum and four (4) votes are required to approve action.

**Section 5. Responsibilities and Duties of the Board.**

(a) The Board Review Committee shall preliminarily determine if an applicant for certification as a geologist-in-training or an applicant for licensure as a professional geologist has satisfied all the requirements required by the Act and these rules. The final determination shall require a majority vote of the Board.

(b) The Board shall determine if an individual meets the provisions for exemption from licensure as defined in W.S. 33-41-117 (a)(I) or (ii). This determination shall require a majority vote of the Board.

(c) The Board may designate a member of the office staff and/or other individuals as its designee(s).

(d) The Board or its designee(s) shall maintain a current list of all states, territories, or possessions of the United States, the District of Columbia, or foreign countries in which the requirements and qualifications for certification and licensure are comparable to those established in the State of Wyoming and where a reciprocity or comity agreement exists.

(e) The Board or its designee(s) shall prepare or have prepared information of public interest describing the regulatory functions of the Board and the procedures by which complaints are filed and resolved.

(f) The Board or its designee(s) shall prepare and maintain an up-to-date roster showing the names, addresses, telephone numbers, and e-mail addresses of all certified geologists-in-training and professional geologists licensed in Wyoming. This information may be furnished to any person upon request.

(g) The Board may establish standards and procedures to evaluate and recognize geologic specialties. 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 the Act.

(h) The Board may not promulgate rules restricting the use of the terms:

(i) "Certified Professional Geologist" or "C.P.G." as used by the American Institute of Professional Geologists; or

(ii) "Certified Petroleum Geologist" or "C.P.G." as used by the

American Association of Petroleum Geologists-Division of Professional Affairs;

(iii) Provided that the full name of the organizations granting the certifications in (i) and (ii) are stated following the use of these terms, and that these terms are not used in such a manner that they tend to, or are likely to, create any impression with the public or any member thereof, that the individual is a professional geologist as defined by W.S. 33-41-102 (ix).

(i) The Board or its designee(s) shall keep a file of all applications for certification as a geologist-in-training and for licensure as a professional geologist.

(i) The files shall include:

(A) The original applications;

(B) Educational transcripts;

(C) Professional references;

(D) Examination results;

(E) Proof of lawful presence in the United States; and

(F) Other such information as may be deemed necessary by the Board.

(ii) Files related to rejected applicants may be held separate from files of approved trainees and licensees.

(j) The records of the Board shall be available for inspection by any person during normal business hours, except as provided for in Chapter 7 of these rules; in W.S. 16-4-201 through 16-4-205, Public Records; or as otherwise provided by law.

(k) The Board shall have an official seal which shall be used on all licensure documents issued by the Board, and on other official business documents of the Board. The official seal of the Board shall be of a design approved by the Board.

(l) Upon written request from a trainee or a licensee, the Board shall provide to another state, jurisdiction, or country, a verification of a trainee's or a licensee's status. This verification may include:

(i) Certification or license number;

- (ii) Date of certification or licensure;
- (iii) Current status of certification or license:
  - (A) Final disciplinary dispositions;
- (iv) Type (s) of degree and date(s) awarded;
- (v) Basis of certification or licensure:
  - (A) Grandfather clause;
  - (B) Examination(s) [date(s) and minimum passing score(s)]; or
  - (C) Comity or reciprocity.

**CHAPTER 3**  
**LICENSURE PROVISIONS**

**Section 1. Fees.**

- (a) For the following items, the maximum chargeable fees are:
- |        |  |                     |
|--------|--|---------------------|
| (i)    | Certification application as a Geologist-in-training<br>not to exceed . . . . .                  | \$75                |
| (ii)   | Licensure application as a Professional Geologist<br>not to exceed . . . . .                     | \$150               |
| (iii)  | Specialty Licensure application, if offered,<br>not to exceed . . . . .                          | \$150               |
| (iv)   | Annual renewal for certification as a<br>Geologist-in-training not to exceed . . . . .           | \$50                |
| (v)    | Annual renewal for licensure as a<br>Professional Geologist not to exceed . . . . .              | \$100               |
| (vi)   | Annual renewal for Retired Professional Geologist<br>not to exceed . . . . .                     | \$50                |
| (vii)  | Re-activation of a Professional Geologist License<br>from retired status not to exceed . . . . . | \$100               |
| (viii) | Examination for Geologist-in-training<br>status not to exceed . . . . .                          | \$350               |
| (ix)   | Examination for Professional Geologist<br>status not to exceed . . . . .                         | \$350               |
| (x)    | Specialty examination, if offered,<br>not to exceed . . . . .                                    | \$350               |
| (xi)   | Reexamination . . . . .  | same as examination |
| (xii)  | Replacement certificate not to exceed . . . . .  | \$50                |

(b) The fees charged for items listed in (a) shall be reaffirmed or adjusted annually to ensure that, to the extent practicable, the total revenue generated from the fees collected approximates the direct and indirect costs of administering the regulatory provisions of the Wyoming Geologists Practice Act. Adjustments to charged fees shall be set by action of the Board at a regular meeting, and fees for the items in (a) shall not exceed the maximum fees stated therein.

**Section 2. Late Fees.**

(a) If a trainee's certification has been expired for less than ninety (90) calendar days, the trainee may reinstate the certification by paying the unpaid annual renewal fee plus one-half (1/2) of the certification application fee.

(b) If a trainee's certification has been expired for longer than ninety (90) calendar days, but less than two (2) years, the trainee may reinstate the certification by paying the unpaid annual renewal fee plus a fee that is equal to the certification application fee.

(c) If a professional geologist's license has been expired for less than ninety (90) calendar days, the licensee may reinstate the license by paying the unpaid annual renewal fee plus one-half (1/2) of the professional geologist licensure application fee, the combination of which shall not exceed one hundred fifty dollars (\$150.00).

(d) If a professional geologist's license has been expired for longer than ninety (90) calendar days, but less than two (2) years, the licensee may reinstate the license by paying a fee of one hundred fifty (\$150.00).

(e) If an individual's license or certification has been expired for two (2) years or longer, the individual may not reinstate the license or certification. The individual may apply for a new license or certification by complying with the requirements and procedures for licensure that are in effect at the time of re-application.

(f) Late fees for a retired professional geologist's status are the same as those for a professional geologist's license specified in subsections (c), (d), and (e) above.

### **Section 3. Renewal Procedures.**

(a) The Board or its designee(s) shall notify each trainee, licensee, and retired licensee of the date of expiration of his or her certification or license. Such notice shall also:

(i) State the fee that shall be required for renewal of his or her certification or license for one (1) year;

(ii) Be mailed at least forty-five (45) calendar days in advance of the date of expiration of said certification or license; and

(iii) Be mailed to the last address that a trainee, licensee, or retired licensee provided to the Board.

(b) A trainee, a licensee, or a retired licensee may renew an unexpired certification or license by prepaying the required annual renewal fee.

(c) The Board may adopt a system under which geologist-in-training certifications, professional geologist licenses, and/or retired professional geologist licenses expire on various dates during the year. The dates for renewal shall be adjusted

accordingly.

(d) Licenses and certifications expire at midnight on their date of expiration.

(e) Failure to receive the notice described in Section 3(a) of this chapter shall not relieve a trainee, a licensee, or a retired licensee of the responsibility for renewing his or her certification or license before it expires.

(f) It is the responsibility of each trainee, licensee, or retired licensee to promptly notify the Board in writing of any change in home address, business affiliation, preferred mailing, and e-mail\_addresses. This notice may be sent by mail, facsimile, or e-mail.

#### **Section 4. Application Requirements for Licensure as a Professional Geologist.**

(a) Applicants for licensure as a professional geologist shall complete application forms prescribed by the Board, which shall contain statements made under oath that demonstrate the applicant has met all the general requirements for licensure as defined in W.S. 33-41-111, except (a) (iii). In addition, the applicants shall:

(i) Include the appropriate fee(s) along with the application;

(ii) Provide the names and addresses of not less than three (3) professional references as defined by Chapter 1, Section 2(m) of these rules, who are not relatives or are not subordinate employees of the applicant and who can attest to the applicant's professional character and repute as defined in Chapter 1 Section 2(e) of these rules. Two (2) or more of the professional references shall be professional geologists or qualified geologists having personal knowledge of the applicant's geologic work experience. No more than one (1) reference can be from the same company or the same division of an agency. No more than one (1) reference can be from a co-worker. One (1) reference must be from a supervisor or client. If an applicant cannot provide these three (3) references, he or she shall provide a written and signed explanation. Based on the applicant's explanation, the Board may prescribe alternatives to these requirements;

(iii) 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;

(iv) Summarize all geological and related professional work experience and provide the names and addresses of supervisors or, in the case of consulting work, clients. If an applicant cannot provide the name and address of at least one (1) supervisor or client, an applicant shall provide a written and signed explanation and the

name and address of one (1) additional professional reference as defined by Chapter I, Section 2(k) of the rules. This additional professional reference shall not be a relative or subordinate employee of the applicant; and

(v) Be hereby apprised that the submittal of an application authorizes the Board to investigate or to have investigated any or all of the statements or information provided on or appended to the application.

(b) Applicants for licensure as a professional geologist shall mail professional references forms to the individuals named in their application. Individuals providing these professional references must return the completed forms or requests directly to the Board.

(c) Criteria the Board considers in determining what geologic work experience shall be credited toward the accumulation of the required four (4) years of professional practice in geologic work include, but are not limited to:

(i) Each full-time month of geologic experience of a character acceptable to the Board, which was carried out for a client or under the direct supervision of a professional geologist or qualified geologist as defined by W.S. 33-41-102(a)(ix) or (x), or other professional who has similar experience, education, and professional character and repute in a related field, shall count as one (1) month of professional practice of geologic work;

(ii) Part-time geologic work experience meeting the criteria in Section 4(c)(i) of this chapter shall be prorated in one-quarter (1/4) of a month increments; and

(iii) The Board shall not accept any experience gained prior to an applicant's meeting the definition of a geologist in W.S. 33-41-102(a)(iv).

(d) The Board shall evaluate all applications for licensure as a professional geologist, but not until an application is filled out in its entirety, signed by the applicant, properly notarized, and appended with official or certified transcripts, the required number and type of professional references, proof of lawful presence in the United States, and the required fee(s).

(e) When the Board is satisfied that an application is complete and in the proper form and that the applicant is eligible in all other aspects to be licensed, it shall certify the applicant as eligible to take the Fundamentals of Geology (FG) and the Practice of Geology (PG) examinations, or, if exempt from examination, pursuant to W.S. 33-41-111(b), W.S. 33-41-118(a), or W.S. 33-41-118(b), as eligible for licensure.

(f) If for any reason the Board is not satisfied that an applicant is eligible in

all respects for examination or licensure as required by W.S. 33-41-101 through 33-41-121 or the rules of the Board, it may deny the individual's application or it may require additional data concerning the applicant's education, experience, and/or professional character and repute. The Board may also require an applicant to submit to an additional examination if the applicant has not furnished satisfactory evidence of his or her qualifications for licensure.

(g) The Board requires an applicant for licensure as a professional geologist to have passed both the Fundamentals of Geology (FG) and the Practice of Geology (PG) examinations, unless the applicant is exempt from examination, pursuant to W.S. 33-41-111(b), W.S. 33-41-118(a), or W.S. 33-41-118(b).

(h) If an applicant does not submit a complete application within six (6) months from the date of seeking licensure, his or her application may be cancelled without prejudice.

(i) A geologist-in-training may not apply for licensure as a professional geologist until the required four (4) years of professional practice in geologic work has been completed.

#### **Section 5. Application Requirements for Certification as a Geologist-in-training.**

(a) Applicants for certification as a geologist-in-training shall complete application forms prescribed by the Board, which shall contain statements made under oath that demonstrate the applicant has met the general requirements for certification as defined in W.S. 33-41-112, except (a)(ii). In addition, the applicant shall:

(i) Include the appropriate fee(s) along with the application;

(ii) 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;

(A) Transcripts must show satisfactory completion of at least twenty-four (24) semester or thirty-six (36) quarter hours from at least five (5) of the following subject areas:

(I) Economic geology, engineering geology, environmental geology, field geology, geochemistry, geomorphology, geophysics, hydrogeology, mineralogy, paleontology, petrology, sedimentology, stratigraphy, or structural geology

(iii) Provide proof of lawful presence in the United States; and

(iv) Be hereby apprised that the submittal of an application authorizes the Board to investigate or to have investigated any or all of the statements or information provided on or appended to the application.

(b) An applicant for certification as a geologist-in-training may be permitted to take the Fundamentals of Geology (FG) examination within the final year of an appropriate, accredited, bachelor's degree program if he or she has completed or is registered for at least twenty-four (24) semester or thirty-six (36) quarter hours from at least five (5) of the following subject areas:

(i) Economic geology, engineering geology, environmental geology, field geology, geochemistry, geomorphology, geophysics, hydrogeology, mineralogy, paleontology, petrology, sedimentology, stratigraphy, or structural geology.

(c) When the Board is satisfied that an application is complete and in the proper form and that the applicant is eligible in all other aspects to be certified, it shall certify the applicant as eligible to take the Fundamentals of Geology (FG) examination, or, if exempt from examination pursuant to W.S. 33-41-112(b), as eligible for certification.

(d) If for any reason the Board is not satisfied that an applicant is eligible in all respects for examination or certification as required by W.S. 33-41-101 through 33-41-121 or the rules of this Board, it may deny the individual's application or it may require additional data concerning the applicant's qualifications for certification

(e) The Board shall require an applicant for certification as a geologist-in-training to have passed the Fundamentals of Geology (FG) examination, unless the applicant is exempt from examination, pursuant to W.S. 33-41-112(b).

(f) If an applicant does not complete an application within twelve (12) months from the date of seeking certification, his or her application may be cancelled without prejudice.

(g) Geologists, who are certified as geologists-in-training in Wyoming, may use "G.I.T." or "Geologist-in-training" as a title after their name, providing these designations are not used in conjunction with their file number or preceded by the word "licensed" or any other words that might lead someone to believe they are licensed as a professional geologist.

(h) If a geologist-in-training changes his or her name, they shall notify the Board in writing. This notification should be made within thirty (30) calendar days of

the name change and should include a statement explaining the reason for the name change and a copy of the legal documents effecting the change.

### **Section 6. Examinations.**

(a) The Fundamentals of Geology (FG) examination and the Practice of Geology (PG) examination will be given at times and places determined by the Board. Completed application forms for professional geologist licensure or geologist-in-training certification must be filed with the Board at least ninety (90) calendar days prior to examination dates.

(b) If the Board has not approved an application by the cutoff date for an examination, the application will be processed for the next Board examination.

(c) When an applicant has paid the proper fee, but is unable to take the scheduled examination, he or she may request a refund or have the fee, less incurred processing costs, credited to the next scheduled examination.

(d) The Board may deny admittance to an examination for any of the following reasons:

(i) The examination or reexamination fee is not received by the Board on or before the date specified by the Board;

(ii) An applicant fails to submit a completed notice of intent form at least sixty (60) calendar days prior to the examination date; or

(iii) The applicant does not present an acceptable form of photo identification such as a current state issued driver's license, passport, or other type of governmental identification.

(e) Within thirty (30) calendar days after the day on which an examination is administered, the Board or its designee(s) shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board or its designee(s) shall notify examinees of the results of the examination within ten (10) working days after the day that the Board or its designee(s) receives the results from the testing service. If notice of the examination results will be delayed for longer than ninety (90) calendar days after the examination date, the Board or its designee(s) shall notify the examinee of the reason for the delay before the ninetieth (90th) calendar day.

(f) An applicant who fails to achieve a passing score on an examination may apply for reexamination by paying the appropriate reexamination fees. An applicant who fails either the Fundamentals of Geology (FG) or the Practice of Geology (PG) examination will only have to retake the examination he or she failed.

(g) An applicant may withdraw his or her application for certification or licensure by written request to the Board. An application withdrawn in this manner shall be considered withdrawn without prejudice.

**Section 7. Admission to the Practice of Geology Examination for Applicants with Out-of-state Geologist-in-training Status.** An applicant for licensure as a professional geologist who has successfully completed a geologist-in-training examination in another jurisdiction, which has an examination equivalent to the examination administered in the State of Wyoming, may be admitted to take the Practice of Geology (PG) examination. Proof of geologist-in-training status must be forwarded directly to the Board from the authority which administered the original examination. An applicant must further comply with all the educational and experience requirements set forth in W.S. 33-41-111, except (a)(iii).

**Section 8. Licensure as a Professional Geologist Without Examination.**

(a) An applicant who holds a valid license to practice geology in another state, jurisdiction, territory, or country may be granted licensure in Wyoming without examination, provided:

(i) The applicant has passed an examination or examinations deemed by the Board as comparable to Wyoming's examination(s) and has submitted evidence acceptable to the Board that the requirements under which he or she was licensed in the original jurisdiction were substantially identical to or more stringent than those now existing in the State of Wyoming; or

(ii) The applicant, if licensed under the grandfather provisions of the state in which he or she currently holds registration or licensure, submits evidence acceptable to the Board that the requirements under which he or she was licensed in the original jurisdiction were substantially identical to or more stringent than those now existing in the State of Wyoming, and submits evidence acceptable to the Board that he or she has:

(A) At least five (5) years of professional geologic work experience subsequent to the date of his or her registration or licensure in that state; and

(B) Held that registration or license continuously for a minimum of five (5) years.

(b) An applicant who does not hold a valid license to practice geology in another state, jurisdiction, territory, or country may be granted licensure in Wyoming without examination if he or she has passed an examination or examinations deemed by

the Board as comparable to Wyoming's examination(s) and has submitted evidence acceptable to the Board that he or she meets the statutory requirements for education and experience in the State of Wyoming.

(c) For purposes of this rule, "evidence acceptable to the Board" shall mean a completed application as described in Section 4 of this chapter and documentation of licensure, if required, on verification of registration or licensure forms prescribed by the Board. Such documentation of licensure shall contain information concerning the method of licensure including examination results, cutoff scores, the date of the original licensure, and the current status of the applicant's license.

#### **Section 9. Requirements for retired licensee status.**

(a) A transfer to retired licensee status shall be made at the time of license renewal.

(b) A professional geologist licensee shall provide the Board with written notification of his or her desire for retired licensee status.

(c) To be granted retired professional geologist status as professional geologist licensee must:

(i) Have been licensed continuously for ten years in Wyoming prior to requesting retired licensee status;

(ii) Not practice geology before the public;

(iii) Pay the annual renewal fee for a retired professional geologist;

(iv) Submit a signed statement with each annual renewal affirming that he or she is not currently practicing and has not practiced geology before the public while retired.

**Section 10. Requirements to return to active licensee status from retired licensee status.** To return to a professional geologist license and be licensed to practice geology before the public, a retired licensee must notify the Board in writing of the desire to return to a professional geologist license, pay the re-activation fee, and the annual renewal fee for licensure as a professional geologist.

## **CHAPTER 4 REGULATORY PROVISIONS**

### **Section 1. Code of Professional Conduct.**

(a) All geologists-in-training and professional geologists certified or licensed in the State of Wyoming shall acknowledge and subscribe to this "Code of Professional Conduct" wherever they are professionally employed or practice geology before the public.

(b) All licensees and trainees, shall be of good professional character and repute and shall be guided by the highest standards of personal integrity and professional conduct:

(i) They shall pursue honesty, integrity, loyalty, fairness, impartiality, candor, fidelity to trust, inviolability of confidence, and honorable conduct as a way of life.

(A) By applying for or by continuing licensure or certification, they agree to comply with and uphold this Code of Professional Conduct.

(c) All licensees and trainees shall uphold public health, safety, and welfare in the performance of professional services, and avoid even the appearance of impropriety.

(i) They shall observe and comply with the requirements and intent of all laws, codes, and regulations.

(A) They shall not knowingly participate in any illegal activities, or knowingly permit the publication of their reports, maps, or other documents for an illegal purpose.

(B) They shall neither offer nor make any illegal payment, gift, or other valuable consideration to a public official for the purpose of influencing a decision by such official; nor shall they accept any payment, gift, or other valuable consideration which would appear to influence a decision made on behalf of the public by them acting in a position of public trust.

(C) If they become aware of a decision or action by an employer, client, or colleague which violates any law or regulation, they shall advise against such action, and when such violation appears to adversely affect public welfare or the safeguard of life, health, property and the environment, they shall advise the appropriate public officials responsible for the enforcement of such law or regulation.

(ii) They shall be accurate, truthful, and candid in all communications with the public.

(A) They shall 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 concern their own professional qualifications or abilities or those of other geologists.

(B) They shall not issue a statement or information which they know to be false or misleading even though directed to do so by an employer or client.

(C) They shall avoid making sensational, exaggerated, and/or unwarranted statements that may mislead or deceive members of the public or any public body.

(iii) They should participate as citizens and as professionals in public affairs.

(A) Licensees or trainees acting in a position of public trust shall exercise their authority impartially, and shall not seek to use their authority for personal profit or to secure any competitive advantage.

(iv) They should promote public awareness of the effects of geology and geological processes on the quality of life.

(d) Licensees and trainees shall serve their employers and clients faithfully and competently within their overall professional obligations.

(i) They shall disclose any actual or potential conflicts of interest which may affect their ability to faithfully serve an employer or client.

(A) They shall disclose to a prospective employer or client the existence of any owned or controlled mineral or other interest which may, either directly or indirectly, have a bearing on such employment.

(B) Licensees and trainees having or expecting to have beneficial interest in a property on which they report shall state the existence of such interest or expected interest in the report.

(C) Licensees and trainees employed or retained by one employer or client shall not knowingly accept, without that employer's or client's written

consent, an engagement by another if the interests of the two are in any manner conflicting.

(D) They shall not accept referral fees from any person to whom an employer or client is referred; however, nothing herein shall prohibit them from being compensated by the employer or client for consultation, or for other services actually performed.

(E) They shall not offer or pay referral fees to any person who refers an employer or client to them; however, nothing herein shall prohibit them from compensating the person giving the referral for consultation or for other services actually performed.

(ii) They shall protect, to the fullest possible extent, the interest of an employer or client so far as is consistent with public welfare or the safeguard of life, health, property and the environment and the licensee's or trainee's legal, professional, and ethical obligations.

(A) They shall not use, directly or indirectly, any confidential information obtained from or in the course of performing services for an employer or client in any way which is adverse or detrimental to the interests of the employer or client, except with the prior consent of the employer or client or when disclosure is required by law.

(B) A licensee or trainee who has made an investigation for an employer or client shall not seek to profit economically from the information gained 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) They shall not use their employer's or client's resources for private gain without their employer's or client's prior knowledge and consent.

(iii) Licensees and trainees shall provide competent service to their employers and clients.

(A) They shall only perform professional services or issue professional advice which is within the scope of their education and experience and that of their professional associates, consultants, or employees, and shall advise the employer or client if any professional advice is outside of their personal expertise.

(B) They shall not give a professional opinion or submit a report without being as thoroughly informed as might be reasonably expected, considering the purpose for which the opinion or report is requested.

(C) They shall 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 by such service.

(iv) They shall serve their employers and clients diligently and perform their services in a timely manner.

(v) Licensees and trainees who find that obligations to an employer or client conflict with professional or ethical standards shall have such objectionable conditions corrected or they shall resign.

(e) A licensee shall not knowingly seal, sign, and date any reports, maps, or other documents not:

(i) Prepared by the licensee;

(ii) Prepared under the licensee's responsible charge or direct supervision; or

(iii) reviewed in a thorough and technical manner by the licensee.

(f) Licensees and trainees shall respect the rights, interests, and contributions of their professional colleagues.

(i) They shall respect and acknowledge the professional status and contributions of their colleagues.

(A) They shall give due credit for work done by others in the course of a professional assignment, and shall not knowingly accept credit due another.

(B) They shall not plagiarize another in oral or written communications, or use materials prepared by others without appropriate attribution.

(g) Licensees and trainees should continually strive to improve the profession of geology so that it may be of ever increasing benefit to society.

(i) They should strive to improve their professional knowledge and skills.

(ii) They should cooperate with others in the profession and encourage the dissemination of geological knowledge.

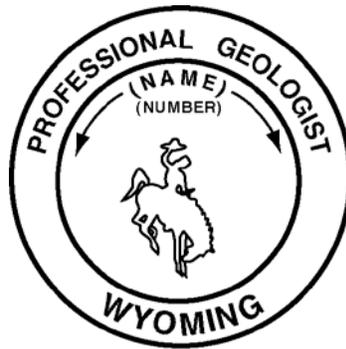
(iii) They should work toward the improvement of standards of geological education, research, training, and practice.

(iv) They should not only uphold these standards of professional conduct by precept and example, but also encourage by counsel and advice to other licensees and trainees, their adherence to such standards.

(v) Licensees and trainees having knowledge of another licensee or trainee violating the Act, the rules of the Board, or this code of professional conduct shall bring substantial evidence of such violation to the attention of the Board.

## **Section 2. Licensee's Seal.**

(a) The seal authorized for licensees is of the crimp type and/or rubber stamp facsimile and shall be of the design shown below. The seal consists of concentric circles with the diameter of the outer circle being one and three quarter (1.75) inches and the diameter of the inner circle being one and one quarter (1.25) inches. The upper portion between the two circles shall bear the phrase: "PROFESSIONAL GEOLOGIST". At the bottom of the annular space between the two circles shall appear the inscription "WYOMING". The inner circle shall contain the name of the licensee and the license number above the outline of a bucking horse of the size, shape, and orientation shown. It is preferred that a licensee's number be preceded by the capital letters "PG" followed by a short dash (example: PG-0000). A license number without the "PG-" is also acceptable. The assigned license number should be centered in the inner area of the seal in the space occupied by the word "NUMBER" and the size of the numbers should not be larger than the letters in "NAME". The words and parentheses "(NUMBER)" and "(NAME)" should not appear on the seal. The seal shall not include the word "DATE".



(b) After the Board notifies an applicant for licensure as a professional geologist that all his or her licensure requirements are satisfied, the applicant must obtain and purchase a seal of the design stipulated in subsection (a) of this section of the rules in order to complete his or her licensure. The Board or its designee(s) will provide a list of vendors who can manufacture and provide seals.

(c) Within ninety (90) calendar days from the date of notification of licensure, the applicant must submit, on a form provided by the Board, an impression or stamp of the seal he or she has obtained, superimposed over an original signature. Failure to provide this impression or stamp is a violation of W.S. 33-41-115(b). Upon approval of the seal impression or stamp, a 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 that meets the Board's stated specifications. Prior to sealing any work, a licensee must have his or her seal approved by the Board.

(d) An imprint of the licensee's valid seal shall appear on the cover page of all original geologic reports or other geologic documents in volume form as well as on each and every sheet of unbound geologic drawings, cross sections, or maps prepared by or under the responsible charge or direct supervision of the licensee, or reviewed in a thorough and technical manner by the licensee, whenever these documents are relevant to public welfare or the safeguard of life, health, property and the environment, pursuant to W.S. 33-41-102(a)(viii). An imprint of the licensee's seal shall be superimposed over his or her signature and the date signed. Computer generated seals are acceptable if accompanied by an original signature of the licensee and date as long as the computer generated seal complies with the requirements of subsection 2(a) above.

(e) Original work in an electronic format with a computer generated seal may be submitted in digital format or transmitted via electronic mail (e-mail) as follows:

(i) Work shall be certified and dated by the licensee using the following text block or similar wording: "The seal appearing on this document was authorized by [for example] J. Doe, P.G. 0111 on (date)" or,

(ii) Work shall have an affixed electronic signature and date which is a digital authentication that shall carry the same weight, authority, and effect as an original signature and date. The electronic signature and date must be unique to the licensee using it; be able to be verified; be under the sole control of the licensee using it; and be linked to a document in such a manner that the electronic signature is invalidated if any data in the document is altered.

(iii) A scanned image of an original signature and date shall not be substituted for a certified seal nor used in lieu of an electronic signature.

(f) Any work sealed and signed by a licensee must have been prepared by that licensee, or by someone under the responsible charge or direct supervision of the licensee, or have been thoroughly and technically reviewed by the licensee. After-the-fact ratification of a document by signing, dating, and sealing [as described in Section 2(d) above], when the underlying work was not performed by or under the responsible charge and supervision of the licensee, is only permissible following thorough and technical review by the licensee.

(g) A licensee whose license is expired shall not use his or her seal on any work until the license is reinstated.

(h) If a replacement or additional seal is required, the licensee shall submit an impression or stamp of the new seal to the Board for its approval, pursuant to subsection (c) of this section of the rules. The impression or stamp of the new seal shall be accompanied by a statement by the licensee made under oath, stipulating the reason for the seal's duplication.

(i) If a licensee changes his or her name, the licensee shall notify the Board in writing. This notification should be made within thirty (30) calendar days of the name change and should include a statement explaining the reason for the name change and a copy of the legal documents effecting the change. Within ninety (90) calendar days after the licensee's name change, the licensee shall obtain a new seal and submit an impression or stamp of the new seal to the Board for its approval, pursuant to subsection (c) of this section of the rules.

**CHAPTER 5**  
**APPLICATIONS, COMPLAINTS, and HEARING PROCEDURES**

**Section 1. Application Review Process.**

(a) Upon receipt of a complete application, the Board Office shall forward the application to the Board Review Committee (BRC).

(b) The BRC shall review the application and all other information available and following the review may:

(i) Approve the application if the applicant meets all requirements, or

(ii) Forward the application to the Attorney General for review if the application raises questions as to whether denial is appropriate.

(c) If, after review, the BRC and Attorney General recommend denial of an application:

(i) A preliminary denial letter shall be sent to applicant. The letter shall:

(A) State the basis for the denial including relevant statutes and rules; and

(B) Advise the applicant of the right to request reconsideration.

(ii) If the applicant fails to request reconsideration in writing within thirty (30) days of the date of the preliminary denial letter, the preliminary denial becomes final.

(iii) If the applicant requests reconsideration within thirty (30) days, a reconsideration conference shall be held with the BRC, the Attorney General, and the applicant.

(iv) Following a reconsideration conference, the BRC shall either approve or deny the application.

(v) If denied, the applicant must submit a written request for a hearing, within thirty (30) days of the date of the denial letter.

(d) Application denial hearings

(i) An application denial hearing is a formal contested case hearing

conducted pursuant to the Wyoming Administrative Procedure Act.

(ii) The hearing is to be conducted in the presence of a quorum of the board, with a hearing officer presiding.

(iii) The applicant has the burden of proving that he/she meets all requirements for the license or certificate applied for.

(e) The BRC shall not take part in the consideration of any contested case.

(f) The BRC shall not, by this rule, be barred from attending any disciplinary hearing.

## **Section 2. Information and Complaints.**

(a) Information. If information concerning a possible violation of the Act or rules is received or obtained by a board member or members of the staff, the Board may, on its own motion, initiate proceedings under the Act and in accordance with the Wyoming Administrative Procedure Act. The license or certificate holder will be notified of proceedings initiated under this section.

(b) Complaint. Persons or entities other than the Board may initiate a disciplinary action against a license or certificate holder by submitting a written complaint to the Board office. Nothing in the section shall be construed to prohibit the Board or the Board's staff from filing a written complaint. The written complaint should provide as much of the following information as may be available and applicable:

(i) The name, address and other contact information for the complainant;

(ii) The name, address, place of employment, and telephone number of the license or certificate holder against whom the charges are made;

(iii) The specific conduct alleged to constitute the violation;

(iv) The name and address of any other witnesses; and

(v) The signature of the complainant.

## **Section 3. Review of Written Complaint.**

(a) Written complaints shall be referred to an assigned Investigative Board

Member (IBM). If the IBM recommends, the Board may hire an independent investigator to conduct the investigation. The license or certificate holder(s) will be advised of the investigation, the name(s) of the IBM, and the nature of the complaint.

(i) The IBM shall not take part in the consideration of any contested case.

(ii) The IBM shall not, by this rule, be barred from attending any disciplinary hearing.

**Section 4. Investigations and Board Action.** The assigned IBM shall investigate those written complaints received which merit further investigation.

(a) Upon completion of the investigation, the IBM shall:

(i) Dismiss the complaint if it finds no evidence of violation of the Act or Board rules; or

(ii) Prepare an investigative report which shall include:

(A) The findings;

(B) A list of statutes and/or Board rules believed to have been violated; and

(C) Any additional relevant information.

(b) The IBM shall review the investigative report, forward the report and his/her recommendations to the Assistant Attorney General assigned to the Board for prosecution, and consult with the Assistant Attorney General.

(c) Following consultation with the Assistant Attorney General, the IBM may:

(i) Send the notice required by Section 5;

(ii) Prepare and file formal petition and notice of hearing setting the matter for a contested case hearing before the Board;

(iii) Recommend the Board accept an offer of conditional terms for settlement, which may include educational courses;

(iv) Recommend the Board dismiss the complaint.

- (d) The Board may resolve a complaint at any time by:
  - (i) Accepting a voluntary surrender of a license or certificate;
  - (ii) Accepting conditional terms for settlement;
  - (iii) Dismissal.

**Section 5. Service of Notice and Opportunity to Show Compliance.** Prior to commencement of a formal hearing, the IBM shall give notice by mail to the license or certificate holder of the facts or conduct which warrant his/her intended action. The notice shall give the license or certificate holder an opportunity to show compliance with all lawful requirements for retention of the license or certificate within twenty (20) days of the mailing of the notice. Such notice shall be sent to the license or certificate holder's last known address both by certified mail with return receipt requested and by first class mail.

**Section 6. Formal Hearing Procedures.**

(a) Formal proceedings for a hearing before the board regarding action against a license or certificate holder shall be commenced by petition and notice of hearing, served in person, or by both certified mail and first class mail sent to the address last known by the Board at least thirty (30) days prior to the date set for the hearing. The petition and notice shall contain at least:

- (i) The name and address of the license or certificate holder;
- (ii) A statement, in ordinary and concise language, of the nature of the complaint filed with the Board, and the facts upon which the complaint is based, as well as the specific statute(s) or Board rules and regulations alleged to have been violated;
- (iii) The time, place, and nature of the hearing;
- (iv) That the hearing is being held pursuant to the authority provided by W.S. 33-41-119; and
- (v) The license or certificate holder shall file an Answer or Notice of Appearance, which must be received by the Board at least ten (10) working days prior to the date set for hearing or the holder will be in default.

**Section 7. Continuance.** For good cause shown, extensions and continuances

may be granted or denied at the discretion of the Board or the hearing officer.

**Section 8. Default.** The Board may enter an order based on the allegations in a petition in any case where the applicant, license, or certificate holder has not either answered or appeared in writing ten (10) working days before the hearing, or in any case in which the applicant, license or certificate holder or his/her representative has not appeared at a scheduled hearing for which they had notice.

**Section 9. Hearing Officer.** The Board may appoint a hearing officer to take evidence at the hearing or the Chairperson or a Board member may serve as the hearing officer.

**Section 10. Discovery.** In all formal proceedings before the Board, discovery shall be afforded in accordance with the Wyoming Administrative Procedure Act.

**Section 11. Subpoenas.**

(a) A Board member or the hearing officer may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths.

(b) Service of a subpoena must be made at the expense of the party applying for it and shall be made in the manner provided by law for service of subpoenas in civil actions.

**Section 12. Witnesses.**

(a) All persons testifying at any hearing before the Board shall be administered a standard oath or affirmation.

(b) No testimony will be received from a witness except under oath or affirmation.

(c) The party calling a witness shall bear the costs associated with his/her appearance.

(d) The Board and hearing officer shall have an opportunity to examine any witness.

**Section 13. Representation.**

(a) A license or certificate holder may represent him/herself or be represented by counsel, provided that such counsel is licensed to practice law in the State of

Wyoming or is associated at the hearing with one or more attorneys licensed to practice law in the State of Wyoming.

(b) In any case before the Board, an appearance in person or the filing of an answer or other pleading shall constitute an appearance of record by an attorney.

(c) A request for withdrawal from representation by an attorney shall be submitted to the Board in writing.

(d) The Assistant Attorney General assigned to the Board for prosecution shall present all matters in a contested case on behalf of the IBM.

**Section 14. Prehearing Conference.**

(a) The hearing officer may direct the parties to appear before him/her to consider:

(i) The simplification of the issues;

(ii) The necessity of desirability of amending the pleadings;

(iii) The possibility of obtaining admissions of fact and of documents to avoid unnecessary proof;

(iv) Formulating procedures to govern the hearing; or

(v) Such other matters as may aid in the disposition of the case.

(b) Prehearing conferences shall be conducted informally. An order will be prepared which recites the actions taken at the conference, amendments allowed, agreements of the parties, and the issues to be determined at the hearing.

**Section 15. Order of Procedure at Hearing.** The hearing will be conducted in substantially the following order:

(a) Opening announcements are made by the hearing officer, including case name and docket number, the issue(s) to be considered, parties and counsel present, and subpoenas issued;

(b) Witnesses should be identified and sworn;

(c) Opening statements may be made at the discretion of the hearing officer. In cases of license denial, the applicant should go first. In disciplinary cases the IBM

should go first;

(d) Presentation of Evidence. The order above will be followed with each party, the hearing officer, and the Board having the opportunity to cross-examine the witnesses. Rebuttal evidence may be presented;

(e) Exhibits offered in evidence by the applicant, or the license or holder will be marked with the letters of the alphabet. Those offered by the IBM will be marked numerically;

(f) Closing arguments may be made at the discretion of the hearing officer. Time may be limited, the order of presentation is as above, and brief rebuttal time may be allowed. The hearing and the evidence are then closed, unless reopened by the hearing officer for good cause shown.

#### **Section 16. Decisions.**

(a) Proposed Decisions:

(i) At the discretion and direction of the Board, the parties may file proposed findings of fact, conclusions of law, and order after the hearing and before the deadline announced in the hearing's closing announcements.

(ii) At the discretion and direction of the Board, the hearing officer shall prepare proposed findings of fact, conclusions of law, and order.

(b) Final Decisions. Proposed decisions will be given consideration but are not binding upon the Board. All final decisions will be issued by the Board and shall be based exclusively upon the evidence in the record and matters officially noticed. All final decisions issued by the Board will be served to all parties by first class mail sent to their last known address.

**Section 17. Appeals.** A Petition for Judicial Review of the Board decision may be filed in the district court in accordance with the Wyoming Rules of Appellate Procedure.

**Section 18. Transcripts.** If a Petition for Judicial Review is filed in the district court, the petitioner shall arrange the preparation and pay for the transcript of the testimony, or reimburse the Board for the cost of the transcript if previously prepared at Board expense.

## **CHAPTER 6 INFORMATION PRACTICES**

**Section 1. Introduction.** Pursuant to W.S. 16-4-201 through 16-4-205, Public Records, or as otherwise provided by law, the Board establishes these rules to ensure the security, confidentiality, and privacy of personal information concerning individuals licensed or certified pursuant to W.S. 33-41-101 through 33-41-121.

**Section 2. Disclosure.** With the exceptions of information required in the Board's roster and information listed in Chapter 2, Section 5(1) of these rules, the personal information compiled by the Board concerning each licensee, trainee, or those individuals in the application process is confidential and shall be released only to the individual to whom the record pertains, to others with his written consent, or upon court order. Disclosure of confidential records and public records shall also be governed by W.S. 16-4-201 through 16-4-205, Public Records, or as otherwise provided by law. (Note that the confidentiality statement above goes beyond the Public Records Act. Under that Act only Social Security Numbers and Letters of Reference are not subject to disclosure.)\_

### **Section 3. Access.**

(a) A licensee, trainee, or an individual in the application process may personally inspect the contents of his or her file with the following exceptions:

- (i) Examination materials and individual grade sheets; and
- (ii) Professional references.

(b) Original documents must remain with the Board but may be copied at the Board's office for a reasonable fee. (The fee should be specified).

**Section 4. Correction and Amendment.** A licensee, trainee, or an individual in the application process may correct erroneous, inaccurate, or misleading information in his or her file by providing the corrections and amendments in writing to the Board.

**THE**  
**RULES AND REGULATIONS**  
  
of the  
  
**WYOMING BOARD OF**  
**PROFESSIONAL GEOLOGISTS**

**RULE CHANGES ADOPTED**

*August 23, 2012*

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## **CHAPTER 11 GENERAL PROVISIONS**

**Section 1. Authority.** The Wyoming Board of Professional Geologists, hereinafter called the "Board", is created by the Wyoming Geologists Practice Act, W.S. 33-41-101 through 33-41-121. Pursuant to W.S. 33-41-106(a), the Board shall from time to time adopt rules and regulations, consistent with the laws of the State of Wyoming, which the Board deems necessary for the performance of its duties.

**Section 2. Definitions.** The definitions set out in W.S. 33-41-101 through 33-41-121 ~~are hereby incorporated by reference into~~ apply to these rules and regulations. In addition, the following definitions of terms shall apply:

(a) "The Act" refers to the Wyoming Geologists Practice Act, W.S. 33-41-101 through 33-41-121.

(b) "Bachelors degree in geology" means a degree granted by an accredited institution of higher learning approved by the Board following completion of a four (4) year undergraduate curriculum with a major in geology that includes a minimum of thirty (30) semester or forty-five (45) quarter hours in geology course work. At least twenty-four (24) of the semester hours or thirty-six (36) of the quarter hours in geology should be in at least five (5) of the following subject areas:

(i) Economic geology, engineering geology, environmental geology, field geology, geochemistry, geomorphology, geophysics, hydrogeology, mineralogy, paleontology, petrology, sedimentology, stratigraphy, or structural geology.

(c) "Board" means the Wyoming Board of Professional Geologists within the department of administration and information.

(~~b~~d) "Certification" includes the Board's process of granting, denying, renewing, revoking, or suspending certification as a geologist-in-training.

(~~g~~e) "Good professional character and repute" means that an applicant for licensure or certification:

(i) Has not been convicted of a felony ~~involving dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, bribery, or breach of fiduciary duty~~ within five (5) years of applying for licensureing;

(ii) Has not been convicted of any crime which discredits the profession~~involving moral turpitude related to the practice of geology~~ within five (5) years of applying for licensureing;

(iii) Is not currently incarcerated in a penal institution;

(iv) Has not engaged in fraud or misrepresentation in connection with his or her application or related examination;

(v) If previously licensed as a professional geologist or certified as a geologist-in-training in ~~this state~~ Wyoming, another state, or foreign country, has not had that license or certification canceled, revoked, suspended, or not renewed for cause within five (5) years of applying for licensure; ~~or~~

(vi) Has not falsely claimed to be a licensed professional geologist or a certified geologist-in-training in ~~this state~~ Wyoming, another state, or foreign country within five (5) years of applying for licensure or certification; or,

(vii) Has not engaged in other misconduct.

(f) "Expired license" means a license which has not been renewed before midnight on its date of expiration.

(hg) "Incompetence" means to lack the professional qualifications, experience, or education to undertake a professional geologic engagement or assignment.

(eh) "License" refers to the Board's document of authorization to use the title of "professional geologist", pursuant to the Act.

(di) "Licensee" means an individual who has been granted a license to practice geology with the title of "professional geologist", pursuant to the Act.

(ej) "Licensure" includes the Board's process of granting, denying, renewing, revoking, or suspending of a license.

(ik) "Negligence" means a substantial deviation in professional practice from the standards of professional practice exercised by members of the geologic profession, or a substantial deviation from any technical standards issued by a nationally and/or state-recognized professional organization comprised of members of the geologic profession, or a substantial deviation from requirements contained in State laws, Board regulations, and local ordinances or regulations related to the practice of geology.

(jl) "Other misconduct" means:

(i) ~~Conviction of any crime reasonably related to the practice of geology;~~

(ii) An adverse civil adjudication involving dishonesty, gross negligence, or incompetence related to the practice of geology;

~~(iii) Suspension or revocation of a certification as a geologist-in-training or a license to practice geology in the State of Wyoming or in any other jurisdiction;~~

(iiv) Knowingly acting, or failing to act, in violation of any provisions of the Act or rules of the Board; ~~of~~ any Federal or state law or regulation; or ~~of~~ any local ordinance, regulation, or code related to the practice of geology; or

(iiiv) Use of false or misleading advertising and/or other deceptive practices.

(km) "Professional reference" means a reference provided by a professional geologist or qualified geologist as defined by W.S. 33-41-102(a)(ix), or (x), or other professional who has similar experience, education, and professional character and repute in a related field.

(n) "Responsible charge" means having full personal responsibility for the correctness and completeness of the geological work product, or portion thereof, sealed, signed and dated by the licensee.

(o) "Retired" status means at the licensee who:

(i) Is no longer engaged in the practice of geology before the public as defined by W.S. §33-41-102 (a)(viii); and

(ii) has maintained an active license for a minimum of ten (10) years.

(p) "Specialty" means any sub-discipline of geology which has been recognized by the Board for the purpose of specialty licensure.

(q) "Thorough technical review" means that the work product has received a thorough technical review and has been critically examined and evaluated for compliance with appropriate professional and scientific standards by a licensee, and the licensee accepts responsibility for the work product.

~~(mr)~~ "Trainee" means an individual who has been certified as a geologist-in-training, pursuant to the Act.

**CHAPTER H2**  
**ORGANIZATION, RESPONSIBILITIES, AND DUTIES OF THE BOARD**

**Section 1. Election of Officers.** The Board shall annually elect from its own membership a chairperson, a vice-chairperson, and a secretary-treasurer who shall assume the duties of their offices at the close of the meeting at which they are elected and serve for a term of one (1) year. If an officer resigns or vacates his or her position prior to the expiration of his or her term, the Board may elect a replacement to serve the remainder of the term.

**Section 2. Duties of Officers.**

(a) The chairperson shall set the time and place of all meetings. When present, the chairperson shall preside at all meetings although at contested hearings, the chairperson may designate an attorney, ~~or another Board officer,~~ or a hearing officer to preside at the hearing. The chairperson shall appoint all committees, ~~sign all original licenses issued,~~ and perform all other duties ordinarily pertaining to the office of chairperson. The chairperson shall assist the secretary-treasurer in matters of advice and in preparation of correspondence and reports as agreed upon by the Board.

(b) The vice-chairperson shall perform all the duties prescribed for the chairperson in the absence of the chairperson. The vice-chairperson shall assist the secretary-treasurer in matters of advice and in preparation of correspondence and reports as agreed upon by the Board.

(c) The secretary-treasurer shall, with the assistance of such staff as may be required, prepare the annual report of the Board, cause the same to be distributed as the Board may direct, conduct and care for all the correspondence of the Board, sign and keep the minutes of all meetings, keep all books and records as herein provided, sign fiscal documents, and assure that meetings are properly noticed. The secretary-treasurer shall receive all monies due to the Board, and assure they are deposited with the State Treasurer.

**Section 3. Meetings of the Board.** The Board shall hold at least four (4) regular business meetings each year. The chairperson, the vice-chairperson, or any four (4) members may call other meetings to conduct the business of the Board. All meetings shall be open to the public and shall be advertised in a paper in general circulation in Wyoming at least ten (10) calendar days prior to a meeting date. The Board may go into executive session when there is a need to protect information deemed confidential, pursuant to Chapter VII of these rules; to W.S. 16-4-201 through 16-4-205, Public Records; or as otherwise provided by law.

**Section 4. Quorum.** Four (4) members shall constitute a quorum, ~~but a majority of the Board is needed to take action~~ and four (4) votes are required to approve action.

**Section 5. Responsibilities and Duties of the Board.**

(a) The Board Review Committee shall preliminarily determine if an applicant for certification as a geologist-in-training or an applicant for licensure as a professional geologist has satisfied all the requirements required by the Act and these rules. ~~This~~The final determination shall require a majority vote of the Board.

(b) The Board shall determine if an individual meets the provisions for exemption from licensure as defined in W.S. 33-41-117 (a)(I) or (ii). This determination shall require a majority vote of the Board.

(c) The Board may designate a member of the office staff and/or other individuals as its designee(s).

(d) The Board or its designee(s) shall maintain a current list of all states, territories, or possessions of the United States, the District of Columbia, or foreign countries in which the requirements and qualifications for certification and licensure are comparable to those established in the State of Wyoming and where a reciprocity or comity agreement exists.

(e) The Board or its designee(s) shall prepare or have prepared information of public interest describing the regulatory functions of the Board and the procedures by which complaints are filed and resolved.

(f) The Board or its designee(s) shall prepare and maintain an up-to-date roster showing the names, addresses, ~~and~~ telephone numbers, and e-mail addresses of all certified geologists-in-training and professional geologists licensed in Wyoming. This information ~~shall be placed on file with the Secretary of State, and~~ may be furnished to any person upon request.

(g) The Board may establish standards and procedures to evaluate and recognize geologic specialties. 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 the Act.

(h) The Board may not promulgate rules restricting the use of the terms:

(i) "Certified Professional Geologist" or "C.P.G." as used by the American Institute of Professional Geologists; or

(ii) "Certified Petroleum Geologist" or "C.P.G." as used by the American Association of Petroleum Geologists-Division of Professional Affairs;

(iii) Provided that the full name of the organizations granting the certifications in (i) and (ii) are stated following the use of these terms, and that these terms are not used in such a manner that they tend to, or are likely to, create any impression with the public or any member thereof, that the individual is a professional geologist as defined by W.S. 33-41-102 (ix).

(i) The Board or its designee(s) shall keep a file of all applications for certification as a geologist-in-training and for licensure as a professional geologist.

(i) The files shall include:

(A) The original applications;

(B) Educational transcripts;

(C) Professional references;

(D) Examination results; ~~and~~

(E) Proof of lawful presence in the United States; and

~~(F)~~ Other such information as may be deemed necessary by the Board.

(ii) Files related to rejected applicants may be held separate from files of approved trainees and licensees.

(j) The records of the Board shall be available for inspection by any person during normal business hours, except as provided for in Chapter ~~VH7~~ of these rules; in W.S. 16-4-201 through 16-4-205, Public Records; or as otherwise provided by law.

(k) The Board shall have an official seal which shall be used on all licensure documents issued by the Board, and on other official business documents of the Board. The official seal of the Board shall be of a design approved by the Board.

(l) Upon written request from a trainee or a licensee, the Board shall provide to another state, jurisdiction, or country, a verification of a trainee's or a licensee's status. This verification may include:

(i) Certification or ~~L~~icense number;

- (ii) Date of certification or licensure;
- (iii) Current status of certification or license:
  - (A) Final disciplinary dispositions;
- (iv) Type(s) of degree and date(s) awarded;
- (v) Basis of certification or licensure:
  - (A) Grandfather clause;
  - (B) Examination(s) [date(s) and minimum passing score(s)]; or
  - (C) Comity or reciprocity.

**CHAPTER III  
LICENSURE PROVISIONS**

**Section 1. Fees.**

- (a) For the following items, the maximum chargeable fees are:
- (i) Certification application as a Geologist-in-training  
not to exceed . . . . . \$75
  - (ii) Licensure application as a Professional Geologist  
not to exceed . . . . . \$150
  - (iii) Specialty Licensure application, if offered,  
not to exceed . . . . . \$150
  - (iv) Annual renewal for certification as a  
Geologist-in-training not to exceed . . . . . \$50
  - (v) Annual renewal for licensure as a  
Professional Geologist not to exceed . . . . . \$100
  - (vi) Annual renewal for Retired Professional Geologist  
not to exceed . . . . . \$50
  - (vii) Re-activation of a Professional Geologist License  
from retired status not to exceed . . . . . \$100
  - (viii) Examination for Geologist-in-training  
status not to exceed . . . . . ~~\$300~~350
  - ~~(viii)~~ Examination for Professional Geologist  
status not to exceed . . . . . ~~\$300~~350
  - ~~(viii)~~ Specialty examination, if offered,  
not to exceed . . . . . ~~\$300~~350
  - ~~(ix)~~ Reexamination . . . . . same as examination
  - ~~(x) Non-refundable portion of application fees . . . . . one half~~
  - (xi) Replacement certificate not to exceed . . . . . ~~\$20~~50

(b) The fees charged for items listed in (a) shall be reaffirmed or adjusted annually to ensure that, to the extent practicable, the total revenue generated from the fees collected approximates the direct and indirect costs of administering the regulatory provisions of the Wyoming Geologists Practice Act. Adjustments to charged fees shall be set by action of the Board at a regular meeting, and fees for the items in (a) shall not exceed the maximum fees stated therein.

**Section 2. ~~Delinquency Penalties~~Late Fees.**

(a) If a trainee's certification has been expired for less than ninety (90) calendar days, the trainee may reinstate the certification by paying the unpaid annual renewal fee plus one-half (1/2) of the certification application fee.

(b) If a trainee's certification has been expired for longer than ninety (90) calendar days, but less than two (2) years, the trainee may reinstate the certification by paying the unpaid annual renewal fee plus a fee that is equal to the certification application fee.

(c) If a professional geologist's license has been expired for less than ninety (90) calendar days, the licensee may reinstate the license by paying the unpaid annual renewal fee plus one-half (1/2) of the professional geologist licensure application fee, the combination of which shall not exceed one hundred fifty dollars (\$150.00).

(d) If a professional geologist's license has been expired for longer than ninety (90) calendar days, but less than two (2) years, the licensee may reinstate the license by paying a fee of one hundred fifty (\$150.00).

(e) If an individual's license or certification has been expired for two (2) years or longer, the individual may not reinstate the license or certification. The individual may apply for a new license or certification by complying with the requirements and procedures for licensure that are in effect at the time of re-application.

(f) Late fees for a retired professional geologist's status are the same as those for a professional geologist's license specified in subsections (c), (d), and (e) above.

### **Section 3. Renewal Procedures.**

(a) The Board or its designee(s) shall notify each trainee, licensee, and retired licensee of the date of expiration of his or her certification or license. Such notice shall also:

(i) State the fee that shall be required for renewal of his or her certification or license for one (1) year;

(ii) Be mailed at least forty-five (45) calendar days in advance of the date of expiration of said certification or license; and

(iii) Be mailed to the last address that a ~~trainee or licensee~~trainee, licensee, or retired licensee provided to the Board.

(b) A trainee, ~~or a licensee, or a retired licensee~~ may renew an unexpired certification or license by prepaying the required annual renewal fee.

(c) The Board may adopt a system under which geologist-in-training certifications, ~~and/or professional geologist licenses, and/or retired professional geologist licenses~~ expire on various dates during the year. The dates for renewal shall be adjusted

accordingly.

(d) Licenses and certifications expire at midnight on their date of expiration.

(e) Failure to receive the notice described in Section 3(a) of this chapter shall not relieve a trainee, ~~or~~ a licensee, or a retired licensee of the responsibility for renewing his or her certification or license before it expires.

(f) It is the responsibility of each ~~a trainee's, a licensee's, or retired licensee~~ responsibility to promptly notify the Board in writing of any change in home address, business affiliation, and(or) preferred ~~postal~~ mailing and e-mail addresses. This notice ~~shall~~may be sent by mail, facsimile, or e-mail.

#### **Section 4. Application Requirements for Licensure as a Professional Geologist.**

(a) Applicants for licensure as a professional geologist shall complete application forms prescribed by the Board, which shall contain statements made under oath that demonstrate the applicant has met all the general requirements for licensure as defined in W.S. 33-41-111, except (a) (iii). In addition, the applicants shall:

(i) Include the appropriate fee(s) along with the application;

(ii) Provide the names and addresses of not less than three (3) professional references as defined by Chapter ~~H~~I, Section 2(~~km~~) of these rules, who are not relatives or are not subordinate employees of the applicant and who can attest to the applicant's professional character and repute as defined in Chapter ~~H~~I, Section 2(~~ge~~) of these rules. Two (2) or more of the professional references shall be professional geologists or qualified geologists having personal knowledge of the applicant's geologic work experience. No more than one (1) reference can be from the same company or the same division of an agency. No more than one (1) reference can be from a co-worker. One (1) reference must be from a supervisor or client. If an applicant cannot provide these three (3) references, ~~an applicant~~ he or she shall provide a written and signed explanation. Based on the applicant's explanation, the Board may prescribe alternatives to these requirements;

(iii) 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;

(iv) Summarize all geological and related professional work experience and provide the names and addresses of supervisors or, in the case of consulting work, clients. If an applicant cannot provide the name and address of at least one (1)

supervisor or client, an applicant shall provide a written and signed explanation and the name and address of one (1) additional professional reference as defined by Chapter I, Section 2(k) of the rules. This additional professional reference shall not be a relative or subordinate employee of the applicant; and

(v) Be hereby apprised that the submittal of an application authorizes the Board to investigate or to have investigated any or all of the statements or information provided on or appended to the application.

~~(b) The Board or its designee may mail or cause the applicant shall~~  
to Applicants for licensure as a professional geologist shall mail forms or requests for professional references forms to the list of individuals the applicant provides named in their application. Individuals providing these professional references must return the completed forms or requests directly to the Board.

(c) Criteria ~~for~~ the Board ~~to~~ considers in determining what geologic work experience shall be credited toward the accumulation of the required four (4) years of professional practice in geologic work include, but are not limited to:

(i) Each full-time month of geologic experience of a character acceptable to the Board, which was carried out for a client or under the direct supervision of a professional geologist or qualified geologist as defined by W.S. 33-41-102(a)(ix) or (x), or other professional who has similar experience, education, and professional character and repute in a related field, shall count as one (1) month of professional practice of geologic work;

(ii) Part-time geologic work experience meeting the criteria in Section 4(c)(i) of this chapter shall be prorated ~~accordingly~~ in one-quarter (1/4) of a month increments; and

(iii) The Board shall not accept any experience gained prior to an applicant's meeting the definition of a geologist in W.S. 33-41-102(a)(iv).

(d) The Board shall evaluate all applications for licensure as a professional geologist, but not until an application is filled out in its entirety, signed by the applicant, properly notarized, and appended with official or certified transcripts, ~~with~~ the required number and type of professional references, proof of lawful presence in the United States, and ~~with~~ the required fee(s).

(e) When the Board is satisfied that an application is complete and in the proper form and that the applicant is eligible in all other aspects to be licensed, it shall certify the applicant as eligible to take the Fundamentals of Geology (FG) and the Practice of Geology (PG) examinations, or, if exempt from examination, pursuant to W.S.

33-41-111(b), W.S. 33-41-118(a), or W.S. 33-41-118(b), as eligible for licensure.

(f) If for any reason the Board is not satisfied that an applicant is eligible in all respects for examination or licensure as required by W.S. 33-41-101 through 33-41-121 or the rules of the Board, it may deny the individual's application or it may require additional data concerning the applicant's education, experience, and/or professional character and repute. The Board may also require an applicant to submit to an additional examination if the applicant has not furnished satisfactory evidence of his or her qualifications for licensure.

(g) The Board ~~shall~~ requires an applicant for licensure as a professional geologist to have passed both the Fundamentals of Geology (FG) and the Practice of Geology (PG) examinations, unless the applicant is exempt from examination, pursuant to W.S. 33-41-111(b), W.S. 33-41-118(a), or W.S. 33-41-118(b).

(h) If an applicant does not submit a complete ~~an~~ application within six (6) months from the date of seeking licensure, his or her application may be cancelled without prejudice. ~~The licensure fee will be returned, less processing costs.~~

(i) A geologist-in-training ~~shall~~ may not ~~make application~~ apply for licensure as a professional geologist until the required four (4) years of professional practice in geologic work has been completed.

**Section 5. Application —Requirements —for —Certification —as —a Geologist-in-training.**

(a) Applicants for certification as a geologist-in-training shall complete application forms prescribed by the Board, which shall contain statements made under oath that demonstrate the applicant has met the general requirements for certification as defined in W.S. 33-41-112, except (a)(ii). In addition, the applicant shall:

(i) Include the appropriate fee(s) along with the application;

(ii) 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;

(A) Transcripts must show satisfactory completion of at least twenty-four (24) semester or thirty-six (36) quarter hours from at least five (5) of the following subject areas:

(I) Economic geology, engineering geology, environmental geology, field geology, geochemistry, geomorphology, geophysics,

hydrogeology, mineralogy, paleontology, petrology, sedimentology, stratigraphy, or structural geology

(iii) Provide proof of lawful presence in the United States; and

(iii) Be hereby apprised that the submittal of an application authorizes the Board to investigate or to have investigated any or all of the statements or information provided on or appended to the application.

(b) An applicant for certification as a geologist-in-training may be permitted to take the Fundamentals of Geology (FG) examination within the final year of an appropriate, accredited, ~~baccalaureate~~ bachelor's degree program if ~~the applicant is granted prior approval by the Board~~ he or she has completed or is registered for at least twenty-four (24) semester or thirty-six (36) quarter hours from at least five (5) of the following subject areas:

(i) Economic geology, engineering geology, environmental geology, field geology, geochemistry, geomorphology, geophysics, hydrogeology, mineralogy, paleontology, petrology, sedimentology, stratigraphy, or structural geology.

(c) When the Board is satisfied that an application is complete and in the proper form and that the applicant is eligible in all other aspects to be certified, it shall certify the applicant as eligible to take the Fundamentals of Geology (FG) examination, or, if exempt from examination pursuant to W.S. 33-41-112(b), as eligible for certification.

(d) If for any reason the Board is not satisfied that an applicant is eligible in all respects for examination or certification as required by W.S. 33-41-101 through 33-41-121 or the rules of this Board, it may deny the individual's application or it may require additional data concerning the applicant's qualifications for certification. ~~The Board may also require an applicant to submit to an additional examination if the applicant has not furnished satisfactory evidence of his or her qualifications or certification.~~

(e) The Board shall require an applicant for certification as a geologist-in-training to have passed the Fundamentals of Geology (FG) examination, unless the applicant is exempt from examination, pursuant to W.S. 33-41-112(b).

(f) If an applicant does not complete an application within twelve (12) months from the date of seeking certification, his or her application may be cancelled without prejudice. ~~The certification fee will be returned, less processing costs.~~

(g) Geologists, who are certified as geologists-in-training in Wyoming, may

use "G.I.T." or "Geologist-in-training" as a title after their name, providing these designations are not used in conjunction with their file number or preceded by the word "licensed" or any other words that might lead someone to believe they are licensed as a professional geologist.

(h) If a geologist-in-training changes his or her name, they shall notify the Board in writing. This notification should be made within thirty (30) calendar days of the name change and should include a statement explaining the reason for the name change and a copy of the legal documents effecting the change.

## **Section 6. Examinations.**

(a) The Fundamentals of Geology (FG) examination and the Practice of Geology (PG) examination will be given at times and places determined by the Board. Completed application forms for professional geologist licensure or geologist-in-training certification must be filed with the Board at least ninety (90) calendar days prior to examination dates.

(b) If the Board has not approved an application by the cutoff date for an examination, the application will be processed for the next Board examination.

(c) When an applicant has paid the proper fee, but is unable to take the scheduled examination, he or she may request a refund or have the fee, less incurred processing costs, credited to the next scheduled examination.

(d) The Board may deny admittance to an examination for any of the following reasons:

(i) The examination or reexamination fee is not received by the Board on or before the date specified by the Board;

(ii) An applicant fails to ~~provide a completed application form~~ submit a completed notice of intent form at least sixty (60) calendar days prior to the examination date; or

(iii) The applicant does not present an acceptable form of photo identification such as a current state issued driver's license, passport, or other type of governmental identification.

(e) Within thirty (30) calendar days after the day on which an examination is administered, the Board or its designee(s) shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board or its designee(s) shall notify examinees of the results of the examination within ten (10) working days after the day that the Board or its designee(s) receives the results from the testing service. If notice of the examination results will be

delayed for longer than ninety (90) calendar days after the examination date, the Board or its designee(s) shall notify the examinee of the reason for the delay before the ninetieth (90th) calendar day.

(f) An applicant who fails to achieve a passing score on an examination may apply for reexamination by paying the appropriate reexamination fees. An applicant who fails either the Fundamentals of Geology (FG) or the Practice of Geology (PG) examination will only have to retake the examination he or she failed. ~~If requested in writing by an applicant who fails an examination, the Board or its designee(s) may furnish the applicant with an analysis of the applicant's performance on the examination.~~

(g) An applicant may withdraw his or her application for certification or licensure by written request to the Board. An application withdrawn in this manner shall be considered withdrawn without prejudice. ~~The refundable portion of the application fee and any examination fee(s), less processing costs, will be refunded.~~

**Section 7. Admission to the Practice of Geology Examination for Applicants with Out-of-state Geologist-in-training Status.** An applicant for licensure as a professional geologist who has successfully completed a geologist-in-training examination in another jurisdiction, which has an examination equivalent to the examination administered in the State of Wyoming, may be admitted to take the Practice of Geology (PG) examination. Proof of geologist-in-training status must be forwarded directly to the Board from the authority which administered the original examination. An applicant must further comply with all the educational and experience requirements set forth in W.S. 33-41-111, except (a)(iii).

**Section 8. Licensure as a Professional Geologist Without Examination.**

(a) An applicant who holds a valid license to practice geology in another state, jurisdiction, territory, or country may be granted licensure in Wyoming without examination, provided:

(i) The applicant has passed an examination(s) or examinations deemed by the Board as comparable to Wyoming's examination(s) and has submitted evidence acceptable to the Board that the requirements under which he or she was licensed in the original jurisdiction were substantially identical to or more stringent than those now existing in the State of Wyoming; or

(ii) The applicant, if licensed under the grandfather provisions of the state in which he or she currently holds registration or licensure, submits evidence acceptable to the Board that the requirements under which he or she was licensed in the original jurisdiction were substantially identical to or more stringent than those now existing in the State of Wyoming, and submits evidence acceptable to the Board that he or she has;

(A) At least five (5) years of professional geologic work experience subsequent to the date of his or her registration or licensure in that state; and

(B) Held that registration or license continuously for a minimum of five (5) years.

(b) An applicant who does not hold a valid license to practice geology in another state, jurisdiction, territory, or country may be granted licensure in Wyoming without examination if he or she has passed an examination or examinations deemed by the Board as comparable to Wyoming's examination(s) and has submitted evidence acceptable to the Board that he or she meets the statutory requirements for education and experience in the State of Wyoming.

(bc) For purposes of this rule, "evidence acceptable to the Board" shall mean a completed application as described in Section 4 of this chapter and documentation of licensure, if required, on verification of registration or licensure forms prescribed by the Board. Such documentation of licensure shall contain information concerning the method of licensure including examination results, cutoff scores, the date of the original licensure, and the current status of the applicant's license.

#### **Section 9. Requirements for retired licensee status.**

(a) A transfer to retired licensee status shall be made at the time of license renewal.

(b) A professional geologist licensee shall provide the Board with written notification of his or her desire for retired licensee status.

(c) To be granted retired professional geologist status as professional geologist licensee must:

(i) Have been licensed continuously for ten years in Wyoming prior to requesting retired licensee status;

(ii) Not practice geology before the public;

(iii) Pay the annual renewal fee for a retired professional geologist;

(iv) Submit a signed statement with each annual renewal affirming that he or she is not currently practicing and has not practiced geology before the public while retired.

**Section 10. Requirements to return to active licensee status from retired licensee status.** To return to a professional geologist license and be licensed to practice geology before the public, a retired licensee must notify the Board in writing of the desire to return to a professional geologist license, pay the re-activation fee, and the annual renewal fee for licensure as a professional geologist.

## CHAPTER IV~~4~~ REGULATORY PROVISIONS

### Section 1. Code of Professional Conduct.

(a) All geologists-in-training and professional geologists certified or licensed in the State of Wyoming shall acknowledge and subscribe to this "Code of Professional Conduct" wherever they are professionally employed or practice geology before the public.

(~~a~~b) All licensees and trainees, shall be of good professional character and repute and shall ~~should~~ be guided by the highest standards of personal integrity and professional conduct:

(i) They ~~should~~ shall pursue honesty, integrity, loyalty, fairness, impartiality, candor, fidelity to trust, inviolability of confidence, and honorable conduct as a way of life.

(A) By applying for or by continuing licensure or certification, they agree to comply with and uphold this Code of Professional Conduct.

(~~b~~c) All Licensees and trainees shall ~~should~~ uphold public health, safety, and welfare in the performance of professional services, and avoid even the appearance of impropriety.

(i) They ~~should~~ shall observe and comply with the requirements and intent of all ~~applicable~~ laws, codes, and regulations.

(A) They shall not knowingly participate in any illegal activities, or knowingly permit the publication of their reports, maps, or other documents for an illegal purpose.

(B) They shall neither offer nor make any illegal payment, gift, or other valuable consideration to a public official for the purpose of influencing a decision by such official; nor shall they accept any payment, gift, or other valuable consideration which would appear to influence a decision made on behalf of the public by them acting in a position of public trust.

(C) If they become aware of a decision or action by an employer, client, or colleague which violates any law or regulation, they shall advise against such action, and when such violation appears to adversely affect public welfare or the safeguard of life, health, property and the environment, they shall advise the appropriate public officials responsible for the enforcement of such law or regulation.

(ii) They ~~should~~shall be accurate, truthful, and candid in all communications with the public.

(A) They shall 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 concern their own professional qualifications or abilities or those of other geologists.

(B) They shall not issue a ~~false~~ statement or ~~false~~ information which they know to be false or misleading even though directed to do so by an employer or client.

(C) They shall avoid making sensational, exaggerated, and/or unwarranted statements that may mislead or deceive members of the public or any public body.

(iii) They should participate as citizens and as professionals in public affairs.

(A) Licensees or trainees acting in a position of public trust shall exercise their authority impartially, and shall not seek to use their authority for personal profit or to secure any competitive advantage.

(iv) They should promote public awareness of the effects of geology and geological processes on the quality of life.

(e) Licensees and trainees ~~should~~shall serve their employers and clients faithfully and competently within their overall professional obligations.

(i) They ~~should~~shall disclose any actual or potential conflicts of interest which may affect their ability to faithfully serve an employer or client.

(A) They shall disclose to a prospective employer or client the existence of any owned or controlled mineral or other interest which may, either directly or indirectly, have a bearing on such employment.

(B) Licensees and trainees having or expecting to have beneficial interest in a property on which they report shall state the existence of such interest or expected interest in the report.

(C) Licensees and trainees employed or retained by one employer or client shall not knowingly accept, without that employer's or client's written

consent, an engagement by another if the interests of the two are in any manner conflicting.

(D) They shall not accept referral fees from any person to whom an employer or client is referred; however, nothing herein shall prohibit them from being compensated by the employer or client for consultation, or for other services actually performed.

(E) They shall not offer or pay referral fees to any person who refers an employer or client to them; however, nothing herein shall prohibit them from compensating the person giving the referral for consultation or for other services actually performed.

(ii) They ~~should~~shall protect, to the fullest possible extent, the interest of an employer or client so far as is consistent with public welfare or the safeguard of life, health, property and the environment and the licensee's or trainee's legal, professional, and ethical obligations.

(A) They shall not use, directly or indirectly, any confidential information obtained from or in the course of performing services for an employer or client in any way which is adverse or detrimental to the interests of the employer or client, except with the prior consent of the employer or client or when disclosure is required by law.

(B) A licensee or trainee who has made an investigation for an employer or client shall not seek to profit economically from the information gained 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) They shall not use their employer's or client's resources for private gain without their employer's or client's prior knowledge and consent.

(iii) Licensees and trainees ~~should~~shall provide competent service to their employers and clients.

(A) They shall only perform professional services or issue professional advice which is within the scope of their education and experience and that of their professional associates, consultants, or employees, and shall advise the employer or client if any professional advice is outside of their personal expertise.

(B) They shall not give a professional opinion or submit a report without being as thoroughly informed as might be reasonably expected, considering the purpose for which the opinion or report is requested.

(C) They shall 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 by such service.

(iv) They ~~should~~shall serve their employers and clients diligently and perform their services in a timely manner.

(v) Licensees and trainees who find that obligations to an employer or client conflict with professional or ethical standards ~~should~~shall have such objectionable conditions corrected or they ~~should~~shall resign.

(e) A licensee shall not knowingly seal, sign, and date any reports, maps, or other documents not:

(i) Prepared by the licensee;

(ii) Prepared under the licensee's responsible charge or direct supervision; or

(iii) reviewed in a thorough and technical manner by the licensee.

~~(d)~~ Licensees and trainees ~~should~~shall respect the rights, interests, and contributions of their professional colleagues.

(i) They ~~should~~shall respect and acknowledge the professional status and contributions of their colleagues.

(A) They shall give due credit for work done by others in the course of a professional assignment, and shall not knowingly accept credit due another.

(B) They shall not plagiarize another in oral or written communications, or use materials prepared by others without appropriate attribution.

~~(e)~~ Licensees and trainees should continually strive to improve the profession of geology so that it may be of ever increasing benefit to society.

(i) They should strive to improve their professional knowledge and skills.

(ii) They should cooperate with others in the profession and encourage the dissemination of geological knowledge.

(iii) They should work toward the improvement of standards of geological education, research, training, and practice.

(iv) They should not only uphold these standards of professional conduct by precept and example, but also encourage by counsel and advice to other licensees and trainees, their adherence to such standards.

(v) Licensees and trainees having knowledge of another licensee or trainee violating the Act, the rules of the Board, or this code of professional conduct ~~should~~shall bring substantial evidence of such violation to the attention of the Board.

## **Section 2. Licensee's Seal.**

(a) The seal authorized for licensees is of the crimp type and/or rubber stamp facsimile and shall be of the design shown below. The seal consists of concentric circles with the diameter of the outer circle being one and three quarter (1.75) inches and the diameter of the inner circle being one and one quarter (1.25) inches. The upper portion between the two circles shall bear the phrase: "PROFESSIONAL GEOLOGIST". At the bottom of the annular space between the two circles shall appear the inscription "WYOMING". The inner circle shall contain the name of the licensee and the license number above the outline of a bucking horse of the size, shape, and orientation shown. It is preferred that a licensee's number be preceded by the capital letters "PG" followed by a short dash (example: PG-0000). A license number without the "PG-" is also acceptable. The assigned license number should be centered in the inner area of the seal in the space occupied by the word "NUMBER" and the size of the numbers should not be larger than the letters in "NAME". The words and parentheses "(NUMBER)" and "(NAME)" should not appear on the seal. The seal shall not include the word "DATE".



(b) After the Board notifies an applicant for licensure as a professional geologist that all his or her licensure requirements are satisfied, the applicant must obtain and purchase a seal of the design stipulated in subsection (a) of this section of the rules in order to complete his or her licensure. The Board or its designee(s) will provide a list of vendors who can manufacture and provide seals.

(c) Within ninety (90) calendar days from the date of notification of licensure, the applicant must submit, on a form provided by the Board, an impression or stamp of the seal he or she has obtained, superimposed over an original signature. Failure to provide this impression or stamp is a violation of W.S. 33-41-115(b). Upon approval of the seal impression or stamp, a 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 that meets the Board's stated specifications. Prior to sealing any work, a licensee must have his or her seal approved by the Board.

(d) An imprint of the licensee's valid seal shall appear on the cover page of all original geologic reports or other geologic documents bound in book-volume form as well as on each and every sheet of unbound geologic drawings, cross sections, or maps prepared by or under the responsible charge or direct supervision of the licensee, or reviewed in a thorough and technical manner by the licensee, whenever these documents are relevant to public welfare or the safeguard of life, health, property and the environment, pursuant to W.S. 33-41-102(a)(viii). An imprint of the licensee's seal shall be superimposed over his or her signature and the date signed. Computer generated seals are acceptable if accompanied by an original signature of the licensee and date as long as the computer generated seal complies with the requirements of subsection 2.(a) above.

(e) Original work in an electronic format with a computer generated seal may be submitted in digital format or transmitted via electronic mail (e-mail) as follows:

(i) Work shall be certified and dated by the licensee using the following text block or similar wording: "The seal appearing on this document was authorized by [for example] J. Doe, P.G. 0111 on (date)" or,

(ii) Work shall have an affixed electronic signature and date which is a digital authentication that shall carry the same weight, authority, and effect as an original signature and date. The electronic signature and date must be unique to the licensee using it; be able to be verified; be under the sole control of the licensee using it; and be linked to a document in such a manner that the electronic signature is invalidated if any data in the document is altered.

(iii) A scanned image of an original signature and date shall not be substituted for a certified seal nor used in lieu of an electronic signature.

(ef) Any work sealed and signed by a licensee must have been prepared by that licensee, or by someone under the responsible charge or direct supervision of the licensee, or have been thoroughly and technically reviewed by the licensee. ~~After-the-fact ratification by the sealing of documents (without thorough technical review by the licensee),~~ of a document by signing, dating, and sealing [as described in Section 2(d) above], when the underlying work was not performed by or under the responsible charge and supervision of the licensee, is ~~prohibited~~ only permissible following thorough and technical review by the licensee.

(fg) A licensee whose license is expired shall not use his or her seal on any work until the license is reinstated.

(gh) If a replacement or additional seal is required, the licensee shall submit an impression or stamp of the new seal to the Board for its approval, pursuant to subsection (c) of this section of the rules. The impression or stamp of the new seal shall be accompanied by a statement by the licensee made under oath, stipulating the reason for the seal's duplication.

(hi) If a licensee changes his or her name, the licensee shall notify the Board in writing. This notification should be made within thirty (30) calendar days of the name change and should include a statement explaining the reason for the name change and a copy of the legal documents effecting the change. Within ninety (90) calendar days after the licensee's name change, the licensee shall obtain a new seal and submit an impression or stamp of the new seal to the Board for its approval, pursuant to subsection (c) of this section of the rules.

**CHAPTER V5**  
**PETITIONS, APPEALS, AND COMPLAINT PROCEDURES**

**Section 1. ~~Petitions to Appeal an Initial Action of the Board.~~**

~~(a) A person may appeal an initial action of the Board. Petitions shall be made in writing and received by the Board no later than sixty (60) calendar days after the date of the action taken by the Board. Petitions shall include:~~

~~(i) The name, address, and telephone number of the person(s) petitioning the Board; and~~

~~(ii) A short and plain statement explaining the content and purpose of the petition.~~

~~(b) After a petition is properly presented, the Board shall determine the disposition of the petition, which includes, but is not limited to, setting the petition for a hearing.~~

**Section 2. ~~Complaints Against a Licensee or Trainee.~~** All complaints against licensees or trainees shall be filed with the Board in writing and shall contain:

~~(a) Name and address of the licensee or trainee;~~

~~(b) Name, address, and telephone number of the complainant;~~

~~(c) Nature of the alleged violations;~~

~~(d) A short and concise statement of facts relating to the alleged violations; and~~

~~(e) Signature of the complainant.~~

**Section 3. ~~Investigation.~~**

~~(a) The Board shall consider the complaint to determine if further investigation of the matter is warranted. If further investigation is deemed necessary, the Board shall assign an investigator, which may be a Board member(s) or a hired independent investigator, to assist a representative of the Attorney General's Office as the investigative committee.~~

~~(b) Upon completion of the investigation, the committee may:~~

~~(i) Prepare and file a formal complaint and notice of hearing with the~~

~~Board, setting the matter for a contested case hearing;~~

- ~~(ii) Recommend to the Board that a reprimand be given;~~
- ~~(iii) Recommend to the Board the complaint be dismissed;~~
- ~~(iv) Recommend to the Board a settlement of the matter; or~~
- ~~(v) Recommend to the Board other appropriate actions.~~

~~(c) The Board may resolve a complaint at any time by:~~

- ~~(I) Sending a written letter of warning;~~
- ~~(ii) Accepting a voluntary surrender of a license or certification;~~
- ~~(iii) Accepting conditional terms for settlement;~~
- ~~(iv) Dispensing with it in an informal manner;~~
- ~~(v) Dismissal; or~~
- ~~(vi) Pursuing other appropriate actions.~~

## CHAPTER VI

### HEARING PROCEDURES

~~**Section 1. Administrative Procedure Act.** All hearings shall be conducted pursuant to the provisions of the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq.~~

~~**Section 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 address of the licensee or trainee.~~

~~**Section 3. 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.~~

~~**Section 4. Answer or Appearance.** The licensee or 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.~~

~~**Section 5. Default in Licensee or Trainee Answering or Appearing.** In the event of the failure to answer or otherwise appear within the time allowed, a default 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.~~

~~**Section 6. Discovery.** In all contested cases coming before the Board, the taking of depositions and discovery shall be available to the parties.~~

~~**Section 7. 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.~~

~~**Section 8. Contested Case Hearing.** All issues and matters set forth in the Notice and Complaint shall be presented to the Board. A licensee or trainee may be represented by an attorney licensed to practice law in this State or associated with an attorney licensed to practice law in this State.~~

~~**Section 9. 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.~~

~~**Section 10. 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's and licensee's or 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 of the 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.~~

~~**Section 11. Rules of Civil Procedure to Apply.** The rules of practice and procedure contained in the Wyoming Rules of Civil Procedure 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 shall apply.~~

~~**Section 12. 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 person appearing before the Board at a hearing in a representative capacity shall be precluded~~

~~from examining or cross-examining any witness unless the person is an attorney licensed to practice law in this State or associated with an attorney licensed to practice law in this State. This rule shall not be construed to prohibit any licensee or trainee from representing themselves before the Board, but any licensee or trainee appearing in their own behalf shall not be relieved of abiding by all procedural rules established for the hearing.~~

~~**Section 13. 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 Wyoming shall appear on behalf of the State, and shall present all evidence, testimony, and legal authority in support of the Notice and Complaint to be considered by the Board.~~

~~**Section 14. Record of Proceedings.** When the denial, revocation, or suspension of any license or certification 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.~~

~~**Section 15. Decision, Findings of Fact, Conclusions of Law, and Order.**~~

~~(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. The decision and order shall be filed with the Board and shall, bear execution, become the decision and order as a result of the hearing.~~

~~(b) No member, staff, or agent of the Board who participated or advised in the investigation or presentation of evidence at the hearing shall participate or advise in the decision.~~

~~(c) Upon entry and filing, the Board shall mail copies of the decision to each licensee or trainee and attorneys of record.~~

~~**Section 16. Appeals to District Court.** Appeals from final Board decisions shall be taken to the district court having jurisdiction and proper venue in accordance with applicable statutes and the Wyoming Rules of Appellate Procedure.~~

~~**Section 17. 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.~~

**Chapter 5**  
**APPLICATIONS, COMPLAINTS, and HEARING PROCEDURES**

**Section 1. Application Review Process.**

(a) Upon receipt of a complete application, the Board Office shall forward the application to the Board Review Committee (BRC).

(b) The BRC shall review the application and all other information available and following the review may:

(i) Approve the application if the applicant meets all requirements, or

(ii) Forward the application to the Attorney General for review if the application raises questions as to whether denial is appropriate.

(c) If, after review, the BRC and Attorney General recommend denial of an application:

(i) A preliminary denial letter shall be sent to applicant. The letter shall:

(A) State the basis for the denial including relevant statutes and rules; and

(B) Advise the applicant of the right to request reconsideration.

(ii) If the applicant fails to request reconsideration in writing within thirty (30) days of the date of the preliminary denial letter, the preliminary denial becomes final.

(iii) If the applicant requests reconsideration within thirty (30) days, a reconsideration conference shall be held with the BRC, the Attorney General, and the applicant.

(iv) Following a reconsideration conference, the BRC shall either approve or deny the application.

(v) If denied, the applicant must submit a written request for a hearing, within thirty (30) days of the date of the denial letter.

(d) Application denial hearings

(i) An application denial hearing is a formal contested case hearing conducted pursuant to the Wyoming Administrative Procedure Act.

(ii) The hearing is to be conducted in the presence of a quorum of the board, with a hearing officer presiding.

(iii) The applicant has the burden of proving that he/she meets all requirements for the license or certificate applied for.

(e) The BRC shall not take part in the consideration of any contested case.

(f) The BRC shall not, by this rule, be barred from attending any disciplinary hearing.

## **Section 2. Information and Complaints.**

(a) Information. If information concerning a possible violation of the Act or rules is received or obtained by a board member or members of the staff, the Board may, on its own motion, initiate proceedings under the Act and in accordance with the Wyoming Administrative Procedure Act. The license or certificate holder will be notified of proceedings initiated under this section.

(b) Complaint. Persons or entities other than the Board may initiate a disciplinary action against a license or certificate holder by submitting a written complaint to the Board office. Nothing in the section shall be construed to prohibit the Board or the Board's staff from filing a written complaint. The written complaint should provide as much of the following information as may be available and applicable:

(i) The name, address and other contact information for the complainant;

(ii) The name, address, place of employment, and telephone number of the license or certificate holder against whom the charges are made;

(iii) The specific conduct alleged to constitute the violation;

(iv) The name and address of any other witnesses; and

(v) The signature of the complainant.

## **Section 3. Review of Written Complaint.**

(a) Written complaints shall be referred to an assigned Investigative Board Member (IBM). If the IBM recommends, the Board may hire an independent investigator to conduct the investigation. The license or certificate holder(s) will be advised of the investigation, the name(s) of the IBM, and the nature of the complaint.

(i) The IBM shall not take part in the consideration of any contested case.

(ii) The IBM shall not, by this rule, be barred from attending any disciplinary hearing.

**Section 4. Investigations and Board Action.** The assigned IBM shall investigate those written complaints received which merit further investigation.

(a) Upon completion of the investigation, the IBM shall:

(i) Dismiss the complaint if it finds no evidence of violation of the Act or Board rules; or

(ii) Prepare an investigative report which shall include:

(A) The findings;

(B) A list of statutes and/or Board rules believed to have been violated; and

(C) Any additional relevant information.

(b) The IBM shall review the investigative report, forward the report and his/her recommendations to the Assistant Attorney General- assigned to the Board for prosecution, and consult with the Assistant Attorney General.

(c) Following consultation with the Assistant Attorney General, the IBM may:

(i) Send the notice required by Section 5;

(ii) Prepare and file formal petition and notice of hearing setting the matter for a contested case hearing before the Board;

(iii) Recommend the Board accept an offer of conditional terms for settlement, which may include educational courses;

(iv) Recommend the Board dismiss the complaint.

(d) The Board may resolve a complaint at any time by:

(i) Accepting a voluntary surrender of a license or certificate;

(ii) Accepting conditional terms for settlement;

(iii) Dismissal.

**Section 5. Service of Notice and Opportunity to Show Compliance.** Prior to commencement of a formal hearing, the IBM shall give notice by mail to the license or certificate holder of the facts or conduct which warrant his/her intended action. The notice shall give the license or certificate holder an opportunity to show compliance with all lawful requirements for retention of the license or certificate within twenty (20) days of the mailing of the notice. Such notice shall be sent to the license or certificate holder's last known address both by certified mail with return receipt requested and by first class mail.

**Section 6. Formal Hearing Procedures.**

(a) Formal proceedings for a hearing before the board regarding action against a license or certificate holder shall be commenced by petition and notice of hearing, served in person, or by both certified mail and first class mail sent to the address last known by the Board at least thirty (30) days prior to the date set for the hearing. The petition and notice shall contain at least:

(i) The name and address of the license or certificate holder;

(ii) A statement, in ordinary and concise language, of the nature of the complaint filed with the Board, and the facts upon which the complaint is based, as well as the specific statute(s) or Board rules and regulations alleged to have been violated;

(iii) The time, place, and nature of the hearing;

(iv) That the hearing is being held pursuant to the authority provided by W.S. 33-41-119; and

(v) The license or certificate holder shall file an Answer or Notice of Appearance, which must be received by the Board at least ten (10) working days prior to the date set for hearing or the holder will be in default.

**Section 7. Continuance.** For good cause shown, extensions and continuances may be granted or denied at the discretion of the Board or the hearing officer.

**Section 8. Default.** The Board may enter an order based on the allegations in a petition in any case where the applicant, license, or certificate holder has not either answered or appeared in writing ten (10) working days before the hearing, or in any case

in which the applicant, license or certificate holder or his/her representative has not appeared at a scheduled hearing for which they had notice.

**Section 9. Hearing Officer.** The Board may appoint a hearing officer to take evidence at the hearing or the Chairperson or a Board member may serve as the hearing officer.

**Section 10. Discovery.** In all formal proceedings before the Board, discovery shall be afforded in accordance with the Wyoming Administrative Procedure Act.

**Section 11. Subpoenas.**

(a) A Board member or the hearing officer may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths.

(b) Service of a subpoena must be made at the expense of the party applying for it and shall be made in the manner provided by law for service of subpoenas in civil actions.

**Section 12. Witnesses.**

(a) All persons testifying at any hearing before the Board shall be administered a standard oath or affirmation.

(b) No testimony will be received from a witness except under oath or affirmation.

(c) The party calling a witness shall bear the costs associated with his/her appearance.

(d) The Board and hearing officer shall have an opportunity to examine any witness.

**Section 13. Representation.**

(a) A license or certificate holder may represent him/herself or be represented by counsel, provided that such counsel is licensed to practice law in the State of Wyoming or is associated at the hearing with one or more attorneys licensed to practice law in the State of Wyoming.

(b) In any case before the Board, an appearance in person or the filing of an answer or other pleading shall constitute an appearance of record by an attorney.

(c) A request for withdrawal from representation by an attorney shall be submitted to the Board in writing.

(d) The Assistant Attorney General assigned to the Board for prosecution shall present all matters in a contested case on behalf of the IBM.

**Section 14. Prehearing Conference.**

(a) The hearing officer may direct the parties to appear before him/her to consider:

(i) The simplification of the issues;

(ii) The necessity or desirability of amending the pleadings;

(iii) The possibility of obtaining admissions of fact and of documents to avoid unnecessary proof;

(iv) Formulating procedures to govern the hearing; or

(v) Such other matters as may aid in the disposition of the case.

(b) Prehearing conferences shall be conducted informally. An order will be prepared which recites the actions taken at the conference, amendments allowed, agreements of the parties, and the issues to be determined at the hearing.

**Section 15. Order of Procedure at Hearing.** The hearing will be conducted in substantially the following order:

(a) Opening announcements are made by the hearing officer, including case name and docket number, the issue(s) to be considered, parties and counsel present, and subpoenas issued;

(b) Witnesses should be identified and sworn;

(c) Opening statements may be made at the discretion of the hearing officer. In cases of license denial, the applicant should go first. In disciplinary cases the IBM should go first;

(d) Presentation of Evidence. The order above will be followed with each party, the hearing officer, and the Board having the opportunity to cross-examine the witnesses. Rebuttal evidence may be presented;

(e) Exhibits offered in evidence by the applicant, or the license or holder will be marked with the letters of the alphabet. Those offered by the IBM will be marked

numerically;

(f) Closing arguments may be made at the discretion of the hearing officer. Time may be limited, the order of presentation is as above, and brief rebuttal time may be allowed. The hearing and the evidence are then closed, unless reopened by the hearing officer for good cause shown.

**Section 16. Decisions.**

(a) Proposed Decisions:

(i) At the discretion and direction of the Board, the parties may file proposed findings of fact, conclusions of law, and order after the hearing and before the deadline announced in the hearing's closing announcements.

(ii) At the discretion and direction of the Board, the hearing officer shall prepare proposed findings of fact, conclusions of law, and order.

(b) Final Decisions. Proposed decisions will be given consideration but are not binding upon the Board. All final decisions will be issued by the Board and shall be based exclusively upon the evidence in the record and matters officially noticed. All final decisions issued by the Board will be served to all parties by first class mail sent to their last known address.

**Section 17. Appeals.** A Petition for Judicial Review of the Board decision may be filed in the district court in accordance with the Wyoming Rules of Appellate Procedure.

**Section 18. Transcripts.** If a Petition for Judicial Review is filed in the district court, the petitioner shall arrange the preparation and pay for the transcript of the testimony, or reimburse the Board for the cost of the transcript if previously prepared at Board expense.

## CHAPTER ~~VH~~6

### INFORMATION PRACTICES

**Section 1. Introduction.** Pursuant to W.S. 16-4-201 through 16-4-205, Public Records, or as otherwise provided by law, the Board establishes these rules to ensure the security, confidentiality, and privacy of personal information concerning individuals licensed or certified pursuant to W.S. 33-41-101 through 33-41-121.

**Section 2. Disclosure.** With the exceptions of information required in the Board's roster and information listed in Chapter ~~H~~2, Section 5(1) of these rules, the personal information compiled by the Board concerning each licensee, trainee, or those individuals in the application process is confidential and shall be released only to the individual to whom the record pertains, to others with his written consent, or upon court order. Disclosure of confidential records and public records shall also be governed by W.S. 16-4-201 through 16-4-205, Public Records, or as otherwise provided by law. (Note that the confidentiality statement above goes beyond the Public Records Act. Under that Act only Social Security Numbers and Letters of Reference are not subject to disclosure.)

#### **Section 3. Access.**

(a) A licensee, trainee, or an individual in the application process may personally inspect the contents of his or her file with the following exceptions:

- (i) Examination materials and individual grade sheets; and
- (ii) Professional references.

(b) Original documents must remain with the Board but may be copied at the Board's office for a reasonable fee. (The fee should be specified).

**Section 4. Correction and Amendment.** A licensee, trainee, or an individual in the application process may correct erroneous, inaccurate, or misleading information in his or her file by providing the corrections and amendments in writing to the Board.