

Document: Proposed Rule, **Register Page Number:** 29 IR 3070

Source: June 1, 2006, Indiana Register, Volume 29, Number 9

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

**TITLE 305 INDIANA BOARD OF LICENSURE FOR
PROFESSIONAL GEOLOGISTS**

Proposed Rule
LSA Document #06-1

DIGEST

Amends 305 IAC 1, which governs licensed professional geologists, by adding provisions regarding probation, amending provisions regarding suspension and revocation, and providing for consistency of actions. Makes technical corrections. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to this Rule:

The Indiana Board of Licensure for Professional Geologists (Board) estimates that no small business will be directly affected by this rule. The Board has authority to promulgate rules in accordance with IC 25-17.6-3-12 including rules reasonably required for the conduct of the Board's responsibilities and duties.

305 IAC 1-1-2	305 IAC 1-3-5.3
305 IAC 1-1-3	305 IAC 1-3-5.5
305 IAC 1-3-5	305 IAC 1-3-6

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

305 IAC 1-1-2 Administrative review and judicial review

Authority: IC 25-17.6-3-12

Affected: IC 4-21.5-1-15; IC 4-21.5-5-5; IC 14-10-2-2; IC 25-17.6

Sec. 2. (a) The board shall notify a person who is denied a new license, ~~is denied a renewal license, has a license suspended, is placed on probation, is reprimanded,~~ or has a license revoked of the following:

- (1) The reason for the action.
- (2) How the person may take administrative review. ~~and~~
- (3) That any administrative review must be initiated within thirty (30) days of the action.

(b) Any administrative review of a decision by the board under this article shall be taken to an administrative law judge appointed by the natural resources commission under IC 14-10-2-2 and shall be addressed as follows:

Director, Division of Hearings
Natural Resources Commission
Indiana Government Center-South
402 West Washington Street, Room W272
Indianapolis, Indiana 46204

(c) In addition to IC 25-17.6 and this article, administrative review is governed by IC 4-21.5 and 312 IAC 3-1. The parties to a proceeding are the board and the individual aggrieved by a decision of the board directed to that individual.

(d) An administrative law judge is the ultimate authority for the board under IC 4-21.5-1-15. A party who is dissatisfied with a final order rendered by an administrative law judge may take judicial review under IC 4-21.5-5. (*Indiana Board of Licensure for Professional Geologists; 305 IAC 1-1-2; filed May 8, 1999, 5:18 p.m.: 22 IR 2214; errata filed Jul 21, 1999, 11:30 a.m.: 22 IR 3937; filed Mar 6, 2000, 7:58 a.m.: 23 IR 1618*)

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

305 IAC 1-1-3 Consistency of actions

Authority: IC 25-17.6-3-12

Affected: IC 4-21.5-3-27; IC 4-21.5-3-32; IC 25-17.6

Sec. 3. (a) The board and, on administrative review, an administrative law judge, shall seek to achieve consistency in the application of licensure and sanctions.

(b) Significant departures from prior decisions involving similar conduct shall be explained in findings or orders. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-1-3)*

SECTION 3. 305 IAC 1-3-5 IS AMENDED TO READ AS FOLLOWS:

305 IAC 1-3-5 Probation, suspension, and revocation

Authority: IC 25-17.6-3-12

Affected: IC 4-21.5-3-8; IC 25-17.6-3-5; IC 25-17.6-8-1

Sec. 5. (a) The board may issue a complaint under IC 4-21.5-3-8 to suspend or revoke a license; or may refuse to renew a license. When a licensed professional geologist is found responsible for any a violation of IC 25-17.6-8-1, the board may do any of the following:

(1) Issue a complaint under IC 4-21.5-3-8 or IC 25-17.6-3-5 to do the following:

(A) Place a license on probation.

(B) Suspend a license.

(C) Revoke a license.

(2) Refuse to renew a license.

(b) Any violation of IC 25-17.6 or this article is a violation of the code of ethics of the board as prescribed by IC 25-17.6-8-1(4). *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-3-5; filed Mar 8, 1999, 5:18 p.m.: 22 IR 2218; errata filed Jul 21, 1999, 11:30 a.m.: 22 IR 3937; filed Mar 6, 2000, 7:58 a.m.: 23 IR 1621)*

SECTION 4. 305 IAC 1-3-5.3 IS ADDED TO READ AS FOLLOWS:

305 IAC 1-3-5.3 Probationary license

Authority: IC 25-17.6-3-12

Affected: IC 4-21.5-3-8; IC 25-17.6-8-1; IC 25-17.6-9

Sec. 5.3. (a) A licensed professional geologist whose license has been placed on probation may be subject to any of the following sanctions, singly or in combination:

(1) Report regularly to the board upon the matters that are the basis of the probation.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education approved by the board until a satisfactory degree of skill is attained in the areas that are the basis of the probation.

(4) Perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the licensee.

(b) The board:

(1) shall determine a reasonable time for the geologist's license to remain on probationary status; and

(2) at any time, may remove some or all sanctions of probation.

(c) A geologist whose license is placed on probation may petition the board for removal of probationary status at the time determined by the board in subsection (b).

(d) A geologist is entitled to administrative review of a board determination under this section subject to IC 25-17.6-9. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-3-5.3)*

SECTION 5. 305 IAC 1-3-5.5 IS ADDED TO READ AS FOLLOWS:

305 IAC 1-3-5.5 Reinstatement of suspended or revoked license

Authority: IC 25-17.6-3-12

Affected: IC 4-21.5-3-8; IC 25-17.6-3-7; IC 25-17.6-8-1

Sec. 5.5. (a) Where a determination is issued under IC 25-17.6-3-7(e)(2) to suspend a license, the board may reinstate the license if the suspended person establishes the ability to practice with reasonable skill, safety, and competency. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this rule, including those of a probationary license.

(b) Where a determination is issued under IC 25-17.6-3-7(e)(2) to revoke a license, the board shall not reinstate the license.

(c) An individual whose license has been revoked shall:

(1) submit an application to the board; and

(2) be considered as a new applicant.

(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-3-5.5)

SECTION 6. 305 IAC 1-3-6 IS AMENDED TO READ AS FOLLOWS:

305 IAC 1-3-6 Informal hearings before the board

Authority: IC 25-17.6-3-12

Affected: IC 4-21.5; IC 25-17.6

Sec. 6. (a) The board may conduct informal hearings to consider any of the following:

(1) The issuance ~~or denial~~ of a new license.

(2) The renewal of a license.

(3) The ~~denial or~~ suspension of a license.

(4) The revocation of a license.

(5) The reprimand of a practitioner.

(6) The placement of a license on probation or other condition of a license.

(7) Any other matter pertaining to the validity of ~~an individual~~ a license.

(b) An informal hearing under this section is not:

(1) subject to IC 4-21.5; and ~~is not~~

(2) governed by formal rules of evidence.

The board is not required to record a hearing held under this section. *(Indiana Board of Licensure for Professional Geologists; 305 IAC 1-3-6; filed Mar 8, 1999, 5:18 p.m.: 22 IR 2218; errata filed Jul 21, 1999, 11:30 a.m.: 22 IR 3937; filed Mar 6, 2000, 7:58 a.m.: 23 IR 1621)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 26, 2006 at 2:00 p.m., at the Indiana Geological Survey, 611 North Walnut Grove, Room S-102, Bloomington, Indiana the Indiana Board of Licensure for Professional Geologists will hold a public hearing on proposed amendments to 305 IAC, governing licensed professional geologists.

The Indiana Board of Licensure for Professional Geologists (Board) is adopting this rule to clarify the procedures for sanctioning a license. The Board also is clarifying the type of sanctions that can be imposed. The adoption of this rule gives clear guidance to the Board as to how to administer sanctions. While the Board could continue to function without adopting this rule, the Board feels that with the turnover of Board members, it would better serve the licensed professional geologist community and the general public to have clear guidelines to assist the Board in administering sanctions.

Copies of these rules are now on file at the Indiana Geological Survey, 611 North Walnut Grove, Bloomington, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Amanda Wilson
Licensing Coordinator
Indiana Board of Licensure for Professional Geologists

