



## **Geologists to Become Licensed Professionals in New York**

By Patricia A. Harris, Esq., Special Counsel

Effective November 21, 2016, geologists will join engineers, architects and landscape architects as design professionals required to be licensed in order to provide services in New York. This amendment to New York's Education Law will impact both individuals and firms that provide geological services in the state.

New Section 7204-a of the law defines the profession of geology as:

Researching, investigating, consulting and geological mapping, describing the natural processes that act upon the earth's materials, predicting the probable occurrence of natural resources, predicting and locating natural or human-induced phenomena which may be useful or hazardous to humankind and recognizing, determining and evaluating geological factors, and the inspection and performance of geological work and the responsible supervision thereof on furtherance of the health, safety and welfare of the public...<sup>1</sup>

The statute specifically states that geological mapping does not include land surveying.<sup>2</sup> Further, the statute provides that professional engineers who investigate, acquire, evaluate and interpret "the physical and chemical properties of the soil, rock, groundwater, earth materials and data related thereto," as well as engage in the activities described in Section 7204-a above, are exempt from licensure as a professional geologist;<sup>3</sup> however, individuals practicing under this exemption cannot hold themselves out as professional geologists.

### **New Requirements for Individuals**

For those individuals who are required or wish to become licensed, the New York State Education Department is currently accepting applications pursuant to a grandfather provision or through endorsement. The grandfather provision will expire on November 21, 2017 and is available to those who (i) may or may not be licensed in another jurisdiction, (ii) have not passed the Fundamentals of Geology and/or Practice of Geology licensure exams and (iii) meet certain education and experience requirements.<sup>4</sup> Endorsement is available to those licensed in another jurisdiction who have passed one of the aforementioned tests, and who meet the same education and experience requirements.<sup>5</sup>

### **New Requirements for Firms**

Prior to March 1, 2018, those firms that provide geological services in New York must be authorized to provide professional services by the New York State Education Department. Essentially, this means that such firms must be constituted as professional corporations, design professional service corporations or professional limited liability companies. With these entity types come requirements related to firm ownership, regarding who may serve as officers and directors (or the equivalent) in such entities, and requirements that the name of the entity include the name of the profession

or professions to be practiced. For entities already fulfilling the ownership and management requirements, this conversion can be accomplished through an amendment to the Certificate of Incorporation or Articles of Organization.

For those currently providing geological services (as defined) in New York, it is best to get the individual licensure and firm authorization processes under way. While it will become significantly more challenging for individual licensure after the grandfather provision expires, any unlicensed or unauthorized practice of a design profession in New York is a Class E Felony.

This article describes generally amendments to the New York State Education Law. It is for informational purposes only and should not be construed as legal advice applicable to specific facts and circumstances. For more information, please contact Patricia A. Harris, Esq. at 212-682-6800.

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1. NY Education Law, Article 145, Section 7204-a.
  2. Ibid.
  3. NY Education Law, Article 145, Section 7208-a(2).
  4. See <http://www.op.nysed.gov/prof/geo/geoeducexpreqchart.pdf>.
  5. Ibid.

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