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 Cc: kbenning@pahousegop.com
 Subject: Proposed Rulemaking; EQB [25 PA. CODE Chapter 102] Erosion and Sediment Control and Stormwater Management

INDEPENDENT REGULATORY
REVIEW COMMISSION

As President of the Pennsylvania Council of Professional Foresters, and in regard to the above-referenced proposed rule-making, I submit the following comments.

With all the language in the proposed changes regarding streams, waters, ponds, etc., and forests associated with these waters, I find that forestry professionals are not mentioned in these rule changes. This is an oversight, possibly deliberate, and one that should be corrected before these changes become law. If the intent of these changes is to protect the waters of the Commonwealth from excessive erosion and sedimentation and to control storm water, then professional foresters, as the natural resource managers, should be included in the current legislation..(Frankly, I fail to understand why we were not included in the current legislation at the beginning!)

From the beginning of DEP, and before that--DER, and before that--Department of Forests and Waters, Pennsylvania government's regulatory professionals and natural resource managers rarely worked in unison. The natural resource managers and the regulators had separate offices and separate deputates. Why?...Did the natural resources of Pennsylvania benefit from these "separate but equal" times? (I'll let your own knowledge of and sense of history answer that one.)Now we are at a crucial time in our history of the management of the Commonwealth's natural resources--the improvement of our waters, and ultimately, the clean-up of that bigger downstream freshwater estuary--the Chesapeake Bay...What better way to demonstrate our good efforts and intentions in this clean-water initiative than by recognizing foresters as fellow professionals -- both the public (DCNR & DEP) and private (ACF, as well as private forest consultants) sectors in this proposed legislation!

In my 38+ years professional career with DCNR/Bureau of Forestry, I repeatedly found that teams consisting of practitioners and regulators/researchers always got to the heart of a problem; found a workable solution, and got the job done faster than any other combination of problem solvers. I believe this same strategy will work again as we tackle the cleanup of our waters in Pennsylvania and assist with those of our downstream neighbors...Simply recognizing foresters as fellow professionals and as part of the natural resource management team will go a long way toward accomplishing the goal of cleaner water for all of us.

In my last 18 years with DCNR-Bureau of Forestry, I was intimately involved with forest, shrub and grass regeneration strategies and with plans for these on both public and private lands in Pennsylvania. As a result of this experience, I learned quite a lot about techniques that worked, as well as those which did not. As a manager, I shared this

information, gained through on-the-job training and through professional courses ,with co-workers, private landowners and fellow professionals. This interchange of ideas and continuing professional training resulted in many successful tree/plant regeneration efforts of forests, open areas, strip mines and wetlands. This same training and the resultant on-the-ground expertise is currently being put to use by DCNR (private land) Service Foresters as well as many professional foresters in the private sector. The credentials all these professionals now possess qualify them to prepare, oversee, and certify completion of stewardship plans for public and private land. They only lack official professional recognition, through licensing, in order to make them part of a team which is amply qualified to manage the forests, uplands and riparian areas of the Commonwealth. By recognizing all DCNR/DEP foresters as well as qualified foresters in the private sector, our lands and waters will receive increased care and oversight without any costs to either DEP or DCNR.

R. Alexander Day, CF
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COMMENTS

2783

ON

PROPOSED RULEMAKING

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ENVIRONMENTAL

DEC - 7 REC'D

QUALITY BOARD

[25 PA. CODE CH. 102]

INDEPENDENT REGULATORY
REVIEW COMMISSION

Erosion and Sediment Control and Stormwater Management

[39 Pa.B. 5131]

[Saturday, August 29, 2009]

As adopted by the Environmental Quality Board June 16, 2009

The Pennsylvania Council of Professional Foresters, Inc. has the following concerns relative to the Proposed Rule Making and makes the following suggestions to mitigate issues affecting scientific forest management practices:

- It must be recognized that, while timber harvesting is defined as an earth disturbance activity (along with many earth disturbances activities that change the lands use and that create major concerns for water quality,) the application of scientific forestry does not impair the forests ability to provide high quality water. Scientific forestry nurtures, enhances and protects the forest's ability to provide high quality water. Scientific forestry - here in after referred to as forestry - does not constitute a land use change. We offer that timber harvesting be further defined as an intermediate or final cutting that extracts salable trees.
- Timber harvesting is a tool essential to forestry and essential to healthy forests.
- Professional foresters are essential to the application of forestry
- Licensing of profession foresters is essential to maintaining (SYLVANIA) in PennSYLVANIA (Penn's woods!)
 - Timber harvesting and forestry are not necessarily synonymous. Forests are too many times negatively impacted when forestry is ignored. However, it is a rare occurrence that forestry is applied without timber harvesting which is equated with earth disturbance activity.
 - Legislation, and Rules and Regulations sometimes become problematic when the natural progression of the forest and modern natural impacts upon the forest are considered.

- FLEXIBILITY is essential to applying forestry in nearly every situation in Pennsylvania forests. Legislation, and Rules and Regulations too often lack the flexibility that nature requires, and which forestry mimics.
 - Forestry needs to be applied by Licensed Professional Foresters (Pennsylvania licensed) who use objective science based practices and studies that directly apply to Pennsylvania forests.
- At the same time consistency is needed to assure appropriate compliance with legislation, and Rules and Regulations. Timber harvesting activities are defined in the existing Chapter 102 definitions as having a much more expansive application to timber harvesting, and forestry, than the existing Timber Harvesting Packet (which includes the Erosion and Sediment Control Plan for a Timber Harvesting Operation (3930-FM-WM0155 Rev. 7/2004) and the Timber Harvest Operations Field Guide For Waterways, Wetlands and Erosion Control) presently provides.
 - It is only reasonable to conclude that these documents will be subject to continuing and increased review and discussion by the Regulatory Community. Very simple administrative changes to these document and to implementation policy and guidelines can raise all timber harvesting, and thereby forestry, to the permit level. It is presently unclear to the regulated community that a permit will not be required for all timber harvesting under the proposed rule making.
 - Integrating Chapter 102 Regulations into the Storm Water Management Regulations will inevitably result in a more restrictive level of enforcement (which the Proposed Rule Making illustrates.) It is not appropriate for any one to state or believe that the proposed rule making will result in business as usual. The regulated community should clearly understand that the proposed rule making is not business as usual. The total possible impacts of the proposed rule making must be the basis for evaluating potential impacts on the regulated community.
 - A positive aspect of the proposed rule making is that the Commonwealth recognizes that licensed professionals are an important ingredient in the protection of Pennsylvania waters. The Forest Stewardship Program is also sighted in the proposed rule making and that in and of itself speaks volumes for forestry and the significance of foresters.
 - One of the most important professions with respect to the protection of streams, forestry, is being somewhat ignored in the process since foresters have not yet been licensed in Pennsylvania. Pennsylvania foresters are trained and equipped to manage Pennsylvania forests and watersheds in a manner which minimizes impact to water quality.
 - Reliance on the skills and judgment of licensed professional foresters should have priority in the management of the forest and forest buffers.
 - The proposed rule making definition concerning licensed professionals should be amended with a statement to the effect that it will include foresters in its application when Pennsylvania foresters are licensed as Registered Professional Foresters.

Proposed legislation to license Pennsylvania foresters recognizes the professional expertise that foresters are trained to provide.

- The proposed rule making should be worded to include foresters in the definition of licensed professionals when they become licensed.

Legislation - sponsored and to be introduced by Representative Kerry Benninghoff, 171st State House District (Center and Mifflin Counties) - is written and being circulated for co-sponsorship in the State House. The proposed legislation will be soon introduced in this session of the General Assembly.

It should be recognized that this effort was in process prior to the publication of the proposed rule making. By the statements made in the proposed rule making - as to the parties consulted in the development of the proposed rule making and adopted by the Environmental Quality Board – it appears that **forestry**, the forestry profession, and foresters may have been under represented in the process. This must be changed!

Our intent is to help improve, promote and maintain the quality of clean waters and streams. Forester's best understand the dynamics, value and need of forest buffers and riparian forests whether they are in a development or large land holding. Therefore, licensing Pennsylvania foresters is a very important ingredient in protecting Water Quality in Pennsylvania and to the practice of Forestry in Pennsylvania!

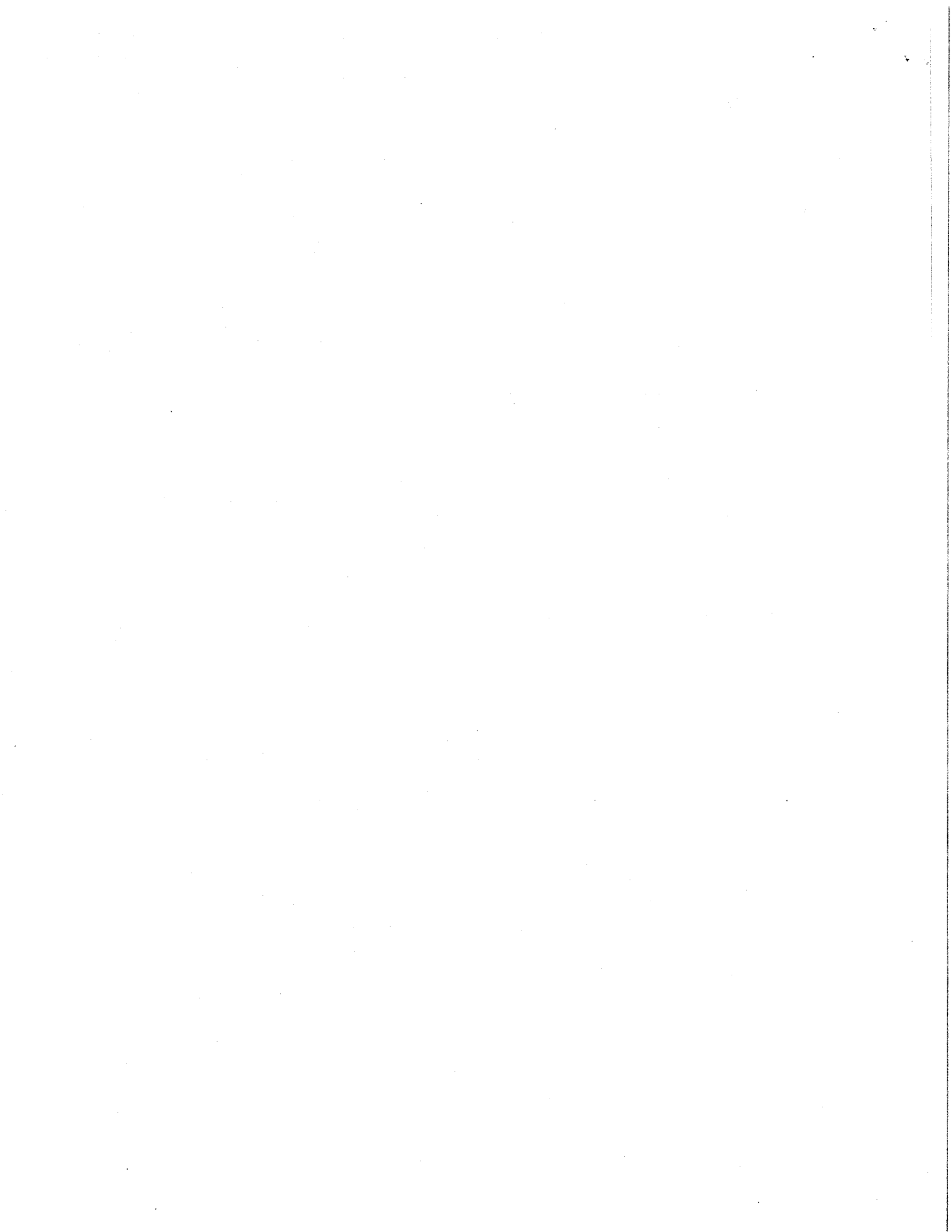
Resolution adopted by the Board of the Pennsylvania Council of Professional Foresters, Inc. on: September 25, 2009.

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In order to facilitate communication to the Pennsylvania Council of Professional Foresters, Inc. (PCPF), either the original or copies of all written or electronic correspondence or requests by any means concerning the Comments or participation in hearings, proceedings on the Proposed Rule Making should be sent or made to the PCPF Secretary/Treasurer and the other officers listed.



AN ACT

1 Amending the act of May 23, 1945 (P.L.913, No.367), entitled, as
2 amended, "An act relating to and regulating the practice of
3 the profession of engineering, including civil engineering,
4 mechanical engineering, electrical engineering, mining
5 engineering and chemical engineering, the profession of land
6 surveying and the profession of geology and constituent parts
7 and combinations thereof as herein defined; providing for the
8 licensing and registration of persons practicing said
9 profession, and the certification of engineers-in-training
10 and surveyors-in-training, and the suspension and revocation
11 of said licenses, registrations and certifications for
12 violation of this act; prescribing the powers and duties of
13 the State Registration Board for Professional Engineers, Land
14 Surveyors and Geologists, the Department of State and the
15 courts; prescribing penalties; and repealing existing laws,"
16 providing for the regulation of the profession of forestry.

17 The General Assembly of the Commonwealth of Pennsylvania

18 hereby enacts as follows:

19 Section 1. The title and section 1 of the act of May 23,
20 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and
21 Geologist Registration Law, amended December 16, 1992 (P.L.1151,
22 No.151), are amended to read:

AN ACT

23
24 Amending the act of May 23, 1945 (P.L.913, No.367), entitled, as

1 amended, "An act relating to and regulating the practice of
2 the profession of engineering, including civil engineering,
3 mechanical engineering, electrical engineering, mining
4 engineering and chemical engineering, the profession of land
5 surveying [and], the profession of geology and the profession
6 of forestry and constituent parts and combinations thereof as
7 herein defined; providing for the licensing and registration
8 of persons practicing said profession, and the certification
9 of engineers-in-training and surveyors-in-training, and the
10 suspension and revocation of said licenses, registrations and
11 certifications for violation of this act; prescribing the
12 powers and duties of the State Registration Board for
13 Professional Engineers, Land Surveyors [and], Geologists and
14 Foresters, the Department of State and the courts;
15 prescribing penalties; and repealing existing laws.

16 Section 1. Short Title.--This act shall be known and may be
17 cited as the "Engineer, Land Surveyor [and], Geologist and
18 Forester Registration Law."

19 Section 2. Section 2(g) and (i) of the act, amended December
20 13, 1979 (P.L.534, No.120) and December 16, 1992 (P.L.1151,
21 No.151), are amended and the section is amended by adding
22 subsections to read:

23 Section 2. Definitions.--As used in this act--

24 * * *

25 (g) "Board" means The State Registration Board for
26 Professional Engineers, Land Surveyors [and], Geologists and
27 Foresters.

28 * * *

29 (i) "Responsible Charge" means a position that requires
30 initiative, skill and independent judgment, and implies such

1 degree of competence and accountability gained by technical
2 education and experience of a grade and character as is
3 sufficient to qualify an individual to personally and
4 independently engage in and be entrusted with the work involved
5 in the practice of engineering [or], land surveying or forestry.
6 This term does not include positions which require routine
7 performance of subprofessional work such as auxiliary survey
8 personnel (unless acting as chief of party) and drafting
9 personnel.

10 * * *

11 (o) "Forestry" means the science, the art and the practice
12 of conserving and managing for human benefit the natural
13 resources, including the trees, other plants, animals, soil and
14 water that occur on and in association with forest lands.

15 (p) "Practice of forestry" means any professional services
16 requiring the application of forestry principles and techniques.
17 Such services shall include, but not be limited to, forest
18 inventory, forest management planning, timber appraisal, the
19 direction and supervision of silvicultural activities, the use
20 and protection of forested areas and the evaluation of the
21 economic and biological consequences of forest management
22 activities. The term shall not be construed to include:

23 (1) the usual and accustomed practices of loggers and timber
24 buyers in connection with purchasing and harvesting timber,
25 provided that they do not represent themselves to be foresters
26 or characterize their services as forestry services;

27 (2) preparation of erosion and sediment control plans
28 pursuant to State laws; and

29 (3) the practice of engineering, land surveying or geology
30 for which separate registration is required under the provisions

1 of this act or landscape architecture for which separate
2 registration is required under the provisions of the act of
3 January 24, 1966 (1965 P.L.1527, No.535), known as the
4 "Landscape Architects' Registration Law."

5 Section 3. Section 3 of the act, amended December 16, 1992
6 (P.L.1151, No.151), is amended to read:

7 Section 3. Practice of Engineering, Land Surveying [or],
8 Geology or Forestry Without Licensure and Registration
9 Prohibited.--(a) In order to safeguard life, health or property
10 and to promote the general welfare, it is unlawful for any
11 person to practice or to offer to practice engineering in this
12 Commonwealth, unless he is licensed and registered under the
13 laws of this Commonwealth as a professional engineer, for any
14 person to practice or to offer to practice land surveying,
15 unless he is licensed and registered under the laws of this
16 Commonwealth as a professional land surveyor [or], for any
17 person to practice or to offer to practice geology unless he is
18 licensed and registered under the laws of this Commonwealth as a
19 professional geologist or for any person to practice or to offer
20 to practice forestry unless he is licensed and registered under
21 the laws of this Commonwealth as a professional forester.
22 Individuals licensed as professional engineers, professional
23 land surveyors or registered landscape architects may perform
24 geological work which is incidental to their engineering,
25 surveying or landscape architecture without being licensed as a
26 professional geologist. Individuals licensed as professional
27 engineers, professional land surveyors, professional geologists
28 or registered landscape architects may perform forestry work
29 which is incidental to their engineering, surveying, geology or
30 landscape architecture without being a professional forester.

1 Individuals licensed as professional foresters may perform
2 engineering, surveying, geological or landscape architecture
3 work which is incidental to their forestry work.

4 (b) A person shall be construed to practice or offer to
5 practice engineering, land surveying [or], geology or forestry
6 who practices any branch of the profession of engineering, land
7 surveying [or], geology or forestry; or who, by verbal claim,
8 sign, advertisement, letterhead, card, or in any other way
9 represents himself to be an engineer, land surveyor [or],
10 geologist or forester, or through the use of some other title
11 implies that he is an engineer, land surveyor [or], geologist or
12 forester or that he is registered under this act; or who holds
13 himself out as able to perform, or who does perform any
14 engineering, land surveying [or], geological or forestry service
15 or work or any other service designated by the practitioner or
16 recognized as engineering, land surveying [or], geology or
17 forestry.

18 Section 4. Section 4 of the act, amended December 16, 1992
19 (P.L.1151, No.151) and November 29, 2006 (P.L.1534, No.170), is
20 amended to read:

21 Section 4. General Powers of Board.--The board shall have
22 power--

23 (a) Approval of Engineering, Surveying [and], Geology and
24 Forestry Curricula.--To investigate and to approve or disapprove
25 engineering, surveying [and], geology and forestry curricula of
26 this State, and other states, territories and countries for the
27 education of students desiring to be licensed to engage in the
28 practice of engineering, land surveying [or], geology or
29 forestry, and to revoke or suspend approvals where they are no
30 longer deemed proper.

1 (b) Licensing Professional Engineers, Professional Land
2 Surveyors [and], Professional Geologists and Professional
3 Foresters.--To provide for and to regulate the licensing, and to
4 license to engage in the practice of engineering, land surveying
5 [or], geology or forestry any person of good moral character and
6 repute who speaks and writes the English language, if such
7 person either--

8 (1) Holds an unexpired license or certificate of
9 registration issued to him by proper authority of some other
10 state, foreign country or territory of the United States in
11 which the requirements and qualifications to engage in the
12 practice of engineering, land surveying [or], geology or
13 forestry were at the time of the initial issuance of such
14 license or certificate of registration at least equal to the
15 existing standards of this Commonwealth: Provided, however, That
16 such other state, territory or foreign country shall similarly
17 license or register professional engineers, professional land
18 surveyors [or], professional geologists or professional
19 foresters licensed and registered in this Commonwealth. A person
20 may be licensed under this subsection without examination.

21 (2) In relation to engineers and surveyors, holds a
22 certificate of qualifications issued by the National Bureau of
23 Engineering Registration of the National Council of Examiners
24 for Engineering and Surveying: Provided, The requirements and
25 qualifications of said bodies to engage in the practice of
26 engineering or land surveying are at least equal to the
27 standards of this Commonwealth. A person may be licensed under
28 this subsection without examination.

29 In carrying into effect clauses (1) and (2) of subsection (b)
30 of this section in relation to engineers and surveyors the board

1 may in its discretion enter into agreements for reciprocity with
2 the National Council of Examiners for Engineering and Surveying
3 and with states under such rules and regulations as the board
4 may prescribe.

5 (3) Complies with the education and experience criteria and
6 successfully completes the two-examination process for licensing
7 as a professional engineer, as set forth in section 4.2, or as a
8 professional land surveyor, as set forth in section 4.3 or the
9 examination process for licensing as a professional geologist as
10 set forth in section 4.4 or as a professional forester as set
11 forth in section 4.6.

12 (c) Investigations of Applications; Determination of
13 Competency of Applicants.--To investigate the allegations
14 contained in any application for licensure or certification
15 under this act in order to determine the truth of such
16 allegations and to determine the competency of any person
17 applying for licensure to assume responsible charge of the work
18 involved in the practice of engineering, land surveying [or],
19 geology or forestry, such competency to be determined by the
20 grade and character of the engineering work, the grade and
21 character of the land surveying work [or], the grade and
22 character of geologic work or the grade and character of
23 forestry work actually performed. In relation to engineers and
24 surveyors, the mere execution as a contractor of work designed
25 by a professional engineer, or the supervision of the
26 construction of such work as a foreman or superintendent, or the
27 operation or maintenance of machinery or equipment, or work
28 performed as a salesman of engineering equipment or apparatus,
29 shall not be deemed to be active practice in engineering, unless
30 such work has involved the actual practice of engineering.

1 Engineering and land surveying work, performed under the
2 supervision of a professional engineer or land surveyor,
3 respectively, shall be given full credit. Whenever the board
4 determines otherwise than by examination, that an applicant has
5 not produced sufficient evidence to show that he is competent to
6 be placed in responsible charge and shall refuse to examine or
7 to license such applicant, it shall set forth in writing its
8 findings and the reasons for its conclusions and furnish a copy
9 thereof to the applicant.

10 (d) Examinations; Fees.--To prescribe the subjects, manner,
11 time and place of examinations for licenses as professional
12 engineers, professional land surveyors [and], professional
13 geologists and professional foresters and for certificates for
14 engineers-in-training and surveyors-in-training, and the filing
15 of applications for such examinations, and to prepare or provide
16 for the preparation of such examinations, conduct or provide for
17 the conduct of such examinations, to make written reports of
18 such examinations, which reports shall be preserved for a period
19 of not less than three years, to collect such fees for such
20 examinations, and for licenses and certificates issued without
21 examination, as may be fixed according to law, and to issue
22 licenses and certificates to such persons as successfully pass
23 such examinations.

24 (e) Biennial Registrations; Fees.--To provide for, regulate
25 and require all persons licensed in accordance with the
26 provisions of this act and all persons licensed and registered
27 under prior laws of this Commonwealth, relating to the licensing
28 of professional engineers [and], professional land surveyors,
29 professional geologists and professional foresters, to register
30 biennially with the board, to prescribe the form of such

1 registration, after consultation with the Commissioner of
2 Professional and Occupational Affairs and the payment of such
3 biennial registration fee, as shall be fixed according to law,
4 to issue biennial registration to such persons and to suspend or
5 revoke the license or registration of such persons as fail,
6 refuse or neglect to so register, or pay such fee within such
7 time as the board shall prescribe by its rules and regulations,
8 and to reinstate licenses and registrations of persons who shall
9 thereafter pay such registration fees in accordance with the
10 rules and regulations of the board.

11 (f) Roster of Registrants.--To keep a roster showing the
12 names and addresses of professional engineers, professional land
13 surveyors [and], professional geologists and professional
14 foresters licensed under this act, and under prior laws, and
15 registered by the board, which roster shall be published in
16 booklet form by the board following each biennial renewal.
17 Copies of the roster shall be furnished upon request to each
18 registered or certified person and may be furnished to other
19 persons upon such terms as the board shall prescribe: Provided,
20 however, That copies of the roster shall be furnished to the
21 Planning Commission and the prothonotary of each county in the
22 Commonwealth.

23 (g) Suspension and Revocation of Licenses; Registrations and
24 Certificates; Reinstatements.--To suspend or revoke the license
25 and registration of any professional engineer, professional land
26 surveyor [or], professional geologist or professional forester
27 or the certificate of any engineer-in-training or surveyor-in-
28 training, who is found guilty by the board, by a majority vote
29 of all its members, of the practice of any fraud, deceit or
30 misrepresentation in obtaining his license, certification or

1 registration, or of gross negligence, incompetency or misconduct
2 in the practice of engineering, in the practice of land
3 surveying [or], in the practice of geology or in the practice of
4 forestry, or of violation of the code of ethics of the
5 engineering profession or of violation of the code of ethics of
6 the forestry profession, and to reinstate suspended licenses,
7 registrations and certificates in any cases where a majority of
8 all the members of the board shall determine the same to be just
9 and proper. Unless ordered to do so by a court, the board shall
10 not reinstate the license, certificate or registration of a
11 person to practice as a professional engineer, professional land
12 surveyor, professional geologist, professional forester or an
13 engineer-in-training or a surveyor-in-training which has been
14 revoked, and such person shall be required to apply for a
15 license, certificate or registration after a period of five
16 years in accordance with section 2 if he desires to practice at
17 any time after such revocation. The board shall require a person
18 whose license or registration has been suspended or revoked to
19 return the license or registration in such manner as the board
20 directs. Failure to do so shall be a misdemeanor of the third
21 degree. Misconduct in the practice of engineering, land
22 surveying [or], geology or forestry shall include, but not be
23 limited to conviction for a criminal offense such as extortion,
24 bribery or fraud or entry of a plea of nolo contendere to a
25 charge thereof for conduct relating to the practice of
26 engineering, land surveying [or], geology or forestry, or has
27 violated any provision of this act or any regulation promulgated
28 by the board. For the purposes of this subsection, the code of
29 ethics is as follows:

30 It shall be considered unprofessional and inconsistent with

1 honorable and dignified bearing for any professional engineer,
2 professional land surveyor [or] professional geologist or
3 professional forester:

4 (1) To act for his client or employer in professional
5 matters otherwise than as a faithful agent or trustee, or to
6 accept any remuneration other than his stated recompense for
7 services rendered.

8 (2) To attempt to injure falsely or maliciously, directly or
9 indirectly, the professional reputation, prospects or business
10 of anyone.

11 (3) To attempt to supplant another engineer, land surveyor
12 [or] geologist or forester after definite steps have been taken
13 toward his employment.

14 (4) To compete with another engineer, land surveyor [or] geologist or forester for employment by the use of unethical
15 practices.

17 (5) To review the work of another engineer, land surveyor
18 [or] geologist or forester for the same client, except with the
19 knowledge of such engineer, land surveyor [or] geologist or
20 forester, or unless the connection of such engineer, land
21 surveyor [or] geologist or forester with the work has
22 terminated.

23 (6) To attempt to obtain or render technical services or
24 assistance without fair and just compensation commensurate with
25 the services rendered: Provided, however, the donation of such
26 services to a civic, charitable, religious or eleemosynary
27 organization shall not be deemed a violation.

28 (7) To advertise in self-laudatory language, or in any other
29 manner, derogatory to the dignity of the profession.

30 (8) To attempt to practice in any field of engineering, land

1 surveying [or], geology or forestry in which the registrant is
2 not proficient.

3 (9) To use or permit the use of his professional seal on
4 work over which he was not in responsible charge.

5 (10) To aid or abet any person in the practice of
6 engineering, land surveying [or], geology or forestry not in
7 accordance with the provision of this act or prior laws.

8 The board shall appoint, with the approval of the Governor,
9 such hearing examiners as shall be necessary to conduct hearings
10 as may be required under this subsection.

11 The board shall have the power to adopt and promulgate rules
12 and regulations setting forth the functions, powers, standards
13 and duties to be followed by the hearing examiners.

14 The hearing examiners shall have the power to conduct
15 hearings in accordance with the regulations of the board, and to
16 issue subpoenas requiring the attendance and testimony of
17 individuals or the production of, pertinent books, records,
18 documents and papers by persons whom they believe to have
19 information relevant to any matter pending before the examiner.
20 Such examiner shall also have the power to administer oaths.

21 The hearing examiner shall hear evidence submitted and
22 arguments of counsel, if any, with reasonable dispatch, and
23 shall promptly record his decision, supported by findings of
24 fact, and a copy thereof shall immediately be sent to the board
25 and to counsel of record, or the parties, if not represented.

26 If application for review is made to the board within twenty
27 days from the date of any decision made as a result of a hearing
28 held by a hearing examiner, the board shall review the evidence,
29 and if deemed advisable by the board, hear argument and
30 additional evidence. As soon as practicable, the board shall

1 make a decision and shall file the same with its finding of the
2 facts on which it is based and send a copy thereof to each of
3 the parties in dispute.

4 (h) Financial Requirements of Board.--(1) To submit
5 annually to the Department of State an estimate of the financial
6 requirements of the board for its administrative, investigative,
7 legal and miscellaneous expenses.

8 (2) To submit annually to the House and Senate
9 Appropriations Committees, fifteen days after the Governor has
10 submitted his budget to the General Assembly, a copy of the
11 budget request for the upcoming fiscal year which the board
12 previously submitted to the department.

13 (i) Administration and Enforcement of Laws.--To administer
14 and enforce the laws of the Commonwealth relating to the
15 practice of engineering, land surveying [and], geology or
16 forestry, and to instruct and require its agents to bring
17 prosecutions for unauthorized and unlawful practices.

18 (j) Minutes and Records.--To keep minutes and records of all
19 its transactions and proceedings. Copies thereof duly certified
20 by the secretary of the board shall be received in evidence in
21 all courts and elsewhere.

22 (k) Member of National Council of Examiners for Engineering
23 and Surveying; Dues.--To become a member of the National Council
24 of Examiners for Engineering and Surveying, and to pay such dues
25 as said council shall establish, and to send delegates to the
26 annual meeting of said council, and to defray their expenses.

27 (l) Administrative Rules and Regulations.--To adopt,
28 promulgate and enforce such administrative rules and
29 regulations, not inconsistent with this act, as are deemed
30 necessary and proper by the board to carry into effect the

1 powers conferred by this act, which shall include establishing
2 requirements for continuing education to be fulfilled by
3 individuals licensed and registered under this act. The rules
4 and regulations shall include any fees necessary for the board
5 to carry out its responsibilities regarding establishing
6 continuing education requirements.

7 (m) Status of Complaints.--The board shall submit annually a
8 report to the Professional Licensure Committee of the House of
9 Representatives and to the Consumer Protection and Professional
10 Licensure Committee of the Senate a description of the types of
11 complaints received, status of cases, board action which has
12 been taken and the length of time from the initial complaint to
13 final board resolution.

14 Section 5. Section 4.1 of the act, amended December 16, 1992
15 (P.L.1151, No.151) and November 25, 2002 (P.L.1113, No.136), is
16 amended to read:

17 Section 4.1. State Registration Board for Professional
18 Engineers, Land Surveyors [and] Geologists and Foresters.--(a)
19 There is hereby established within the Department of State the
20 State Registration Board for Professional Engineers, Land
21 Surveyors [and] Geologists and Foresters. The board shall
22 consist of the Commissioner of Professional and Occupational
23 Affairs, three members appointed by the Governor who shall be
24 persons representing the public at large and [nine] eleven
25 members appointed by the Governor, five of whom shall be
26 registered professional engineers, two of whom shall be
27 registered professional land surveyors [and] two of whom shall
28 be registered professional geologists and two of whom shall be
29 registered professional foresters. Any land surveyor or forester
30 appointed to serve on the board shall have received the

1 respective land surveyor or forester license upon the passage of
2 the appropriate examination. Any geologist licensed under
3 section 4.4 of this act shall be eligible for appointment to the
4 board. For the initial board appointments, the two professional
5 forester members need not be licensed by examination at the time
6 of appointment but must have satisfied the education and
7 experience requirements of this act for licensure as a
8 professional forester. The professional members of the board
9 shall be so selected that not more than two of them shall
10 specialize in any one of the five major disciplines of
11 engineering: civil, mining and metallurgical, mechanical,
12 electrical and chemical. Each member of the board shall be a
13 citizen of the United States and a resident of this
14 Commonwealth. Each professional member shall have been engaged
15 in the practice of the respective profession for at least ten
16 years and shall have been in responsible charge of work for at
17 least five years.

18 (b) The terms of members of the board shall be six years, or
19 until his successor has been appointed and qualified but not
20 longer than six months beyond the six-year period. In the event
21 that any of said members shall die or resign during his term,
22 his successor shall be appointed in the same way and with the
23 same qualifications and shall hold office for the unexpired
24 term. No member shall be eligible for appointment to serve more
25 than two consecutive full terms.

26 (c) [~~Seven~~] Eight members of the board shall constitute a
27 quorum. A member may not be counted as part of a quorum or vote
28 on any issue, other than temporary and automatic suspension,
29 under this act unless he is physically in attendance at the
30 meeting.

1 (d) The board shall select annually a president from among
2 its members.

3 (e) Each member of the board, except the Commissioner of
4 Professional and Occupational Affairs and the Director of the
5 Bureau of Consumer Protection in the Office of Attorney General,
6 or his designee, shall receive sixty dollars per diem when
7 actually attending to the work of the board. Members shall also
8 receive the amount of reasonable traveling, hotel and other
9 necessary expenses incurred in the performance of their duties.

10 [(f) The board is subject to evaluation, review and
11 termination within the time and in the manner provided in the
12 act of December 22, 1981 (P.L.508, No.142), known as the "Sunset
13 Act."]

14 (g) A member of the board who fails to attend three
15 consecutive meetings shall forfeit his seat unless the
16 Commissioner of Professional and Occupational Affairs, upon
17 written request from the member, finds that the member should be
18 excused from a meeting because of illness or the death of a
19 family member.

20 (h) A public member who fails to attend two consecutive
21 statutorily mandated training seminars in accordance with
22 section 813(e) of the act of April 9, 1929 (P.L.177, No.175),
23 known as "The Administrative Code of 1929," shall forfeit board
24 membership unless the Commissioner of Professional and
25 Occupational Affairs, upon written request from the public
26 member, finds that the public member should be excused from a
27 meeting because of illness or the death of a family member.

28 Section 6. The act is amended by adding a section to read:

29 Section 4.6. Procedure for Licensing as a Professional
30 Forester.--(a) The board shall provide for a licensure

1 examination. All written, oral and practical examinations shall
2 be prepared and administered by a qualified and approved
3 professional testing organization in a manner prescribed for
4 written examinations by the provisions of section 812.1 of the
5 act of April 9, 1929 (P.L.177, No.175), known as "The
6 Administrative Code of 1929." However, during the first two
7 years after the effective date of this section, the board shall
8 issue licenses without examination to applicants who meet the
9 requirements of subsection (b)(1), (2) and (4). The board may
10 further postpone the examination for up to two additional years
11 if necessary in order to provide for an examination in
12 accordance with section 812.1 of "The Administrative Code of
13 1929."

14 (b) An applicant shall be qualified to be licensed after
15 submission of proof satisfactory to the board that the
16 applicant:

17 (1) Is of good moral character.

18 (2) Has met one of the following education and experience
19 requirements:

20 (i) Has graduated from an approved four-year forestry
21 curriculum or attained a higher degree in an approved forestry
22 curriculum and has completed at least four years of professional
23 forestry work including at least two years under the supervision
24 of a licensed professional forester or four years in a
25 responsible position in professional forestry work.

26 (ii) Has graduated from an approved two-year forestry
27 curriculum and has completed at least six years of professional
28 forestry experience including at least three years under the
29 supervision of a licensed professional forester or six years in
30 a responsible position in forestry work. For the purposes of

1 this section individuals who have graduated from a one-year
2 concentrated twelve-month curriculum in forestry technology,
3 such as the Syracuse Wanakena Ranger, Forest Technician School,
4 shall be considered to have attained the equivalent of a two-
5 year forest technology degree.

6 (3) Has passed any examination adopted by the board.

7 (4) Has paid all appropriate fees in the amount determined
8 by the board by regulation.

9 (c) Professional forestry work performed prior to the
10 effective date of this section shall satisfy the requirements of
11 subsection (b)(2)(i) and (ii) if it is performed under the
12 supervision of either a licensed professional forester or a
13 forester who was not licensed.

14 (d) For the purposes of this section, professional forestry
15 work does not include routine activities in the process of
16 sampling, laboratory work, forestry drafting, timber marking,
17 log and lumber scaling and grading, and timber harvesting
18 activity. Credit for graduate study may not exceed a total of
19 two years of professional forestry work.

20 (e) Unless otherwise provided in this section, a licensed
21 professional forester shall only maintain licensure upon
22 submission of documentation to the satisfaction of the board,
23 submitted concurrent with required biennial fees, that the
24 individual licensed under this act as a registered professional
25 forester has completed a minimum of forty contact hours in
26 continuing forestry education training during the preceding
27 biennial registration period provided by any board-recognized
28 national professional forestry society or association serving
29 licensed professional foresters or continuing forestry education
30 training which was otherwise approved by the board.

1 (f) Individuals engaged in the practice of forestry on the
2 effective date of this section who have attained, at the
3 minimum, a two-year degree in a field of study closely related
4 to forestry or who have only completed three years of an
5 approved four-year forestry curriculum who meet all requirements
6 of subsection (b)(1), (2) and (4), other than graduating from a
7 two-year or four-year forestry curriculum shall not be denied
8 the privilege of the practice of forestry until they have had
9 the opportunity to pass the examination provided for under
10 subsection (a), provided that they comply with the continuing
11 education requirement of subsection (e) during any period prior
12 to their examination. The following apply:

13 (i) Individuals so practicing without a license may not
14 represent themselves to be licensed foresters, but shall be
15 permitted to represent themselves as "forester applicant,
16 license pending examination."

17 (ii) An applicant who has graduated from an approved two-
18 year or four-year forestry curriculum, who has submitted to the
19 board any application required by this section during the first
20 two years following the effective date of this section which
21 fully documents the required training and forestry work
22 experience as required in subsection (b)(2)(i) or (ii) shall not
23 be denied the privilege of representing himself to be a
24 forester, unless the application is denied by the board.

25 (iii) No person may represent himself to be a registered
26 professional forester in this Commonwealth until so licensed by
27 the board.

28 Section 7. Sections 5, 6, 7, 9, 10.2, 11 and 11.1 of the
29 act, amended December 16, 1992 (P.L.1151, No.151), are amended
30 to read:

1 Section 5. Exemption from Licensure and Registration.--

2 Except as specifically provided in this section, this act shall
3 not be construed to require licensure and registration in the
4 following cases:

5 (a) The practice of engineering, land surveying [or]
6 geology or forestry by any person who acts under the supervision
7 of a professional engineer, professional land surveyor [or]
8 professional geologist or professional forester, respectively,
9 or by an employe of a person lawfully engaged in the practice of
10 engineering, land surveying [or] geology or forestry and who,
11 in either event, does not assume responsible charge of design or
12 supervisions;

13 (b) The practice of engineering, land surveying [or]
14 geology or forestry, not exceeding thirty days in the aggregate
15 in one calendar year, by a nonresident not having a place of
16 business in this Commonwealth, if such person is legally
17 qualified to engage in the practice of engineering, land
18 surveying [or] geology or forestry in the state or territory of
19 his residence: Provided, That standards of such state or
20 territory are at least equal to the standards of this
21 Commonwealth;

22 (c) The practice of engineering, land surveying [or]
23 geology or forestry by officers and employes of the United
24 States Government for the said government;

25 (d) Except as otherwise provided in subsection (g) of this
26 section, the practice of engineering [or] land surveying or
27 forestry by a regular employe of a public utility company, as
28 defined by the Public Utility Code (66 Pa.C.S. § 101 et seq.) in
29 connection with the facilities of such public utility, which are
30 subject to regulation by the Pennsylvania Public Utility

1 Commission: Provided, That such public utility shall employ at
2 least one professional engineer, as defined in this act, who
3 shall be in responsible charge of such utility's engineering
4 work [and], shall employ at least one professional land
5 surveyor, as defined in this act, who shall be in responsible
6 charge of such utility's land surveying and shall employ at
7 least one professional forester, as defined by this act, who
8 shall be in responsible charge of such utility's forestry work;

9 (e) The practice of architecture by a duly registered
10 architect, and the doing of such engineering work as is
11 incidental to his architectural work;

12 (f) The practice of engineering, land surveying [or],
13 geology or forestry by any person or by any employe of any
14 copartnership, association or corporation upon property owned by
15 such person or such copartnership, association or corporation,
16 unless such practice affects the public safety or health or the
17 property of some other person or entity.

18 (g) The practice of engineering, land surveying [or],
19 geology or forestry work by a manufacturing, mining,
20 communications common carrier, research and development or other
21 industrial corporation or by employes of such corporation,
22 provided such work is in connection with or incidental to
23 products of, or non-engineering or non-forestry services
24 rendered by, such corporation or its affiliates.

25 (h) The running of lines or grades and layout work on or
26 within established property limits, or from established points
27 outside the property limits to or within such property limits
28 when performed by a contractor or home builder in conjunction
29 with the construction, reconstruction, alteration, maintenance
30 or demolition of a structure or other facility.

1 (i) The writing of deed descriptions.

2 (j) The preparation of shop drawings or the performance of
3 construction management services by persons customarily engaged
4 in construction work.

5 (k) The practice of individuals providing geologic services
6 to businesses engaged in the exploration or development of gas
7 or oil.

8 Section 6. Practice by Firms and Corporations.--The practice
9 of engineering, of land surveying [and] of geology and of
10 forestry being the function of an individual or of individuals
11 working in concerted effort, it shall be unlawful for any firm
12 or corporation to engage in such practice, or to offer to
13 practice, or to assume use or advertise any title or description
14 conveying the impression that such firm or corporation is
15 engaged in or is offering to practice such profession, unless
16 the directing heads and employes of such firm or corporation in
17 responsible charge of its activities in the practice of such
18 profession are licensed and registered in conformity with the
19 requirements of this act, and whose name, seal and signature,
20 along with the date of signature, shall be stamped on all plans,
21 specifications, plats and reports issued by such firm or
22 corporation.

23 Section 7. Seal of Registrants.--(a) Each person,
24 registered under this act, shall obtain a seal of a design
25 authorized by the board which shall bear the registrant's name
26 and number and the legend "Registered Professional Engineer,"
27 "Registered Professional Land Surveyor," [or] "Registered
28 Professional Geologist or Registered Professional Forester."
29 Such seal, or a facsimile imprint of same, shall be stamped on
30 all plans, specifications, plats and reports issued by a

1 professional engineer, professional land surveyor [or],
2 professional geologist or professional forester.

3 (b) It shall be unlawful for any person to use such seal
4 during the period the license or registration of the holder
5 thereof has been suspended or revoked, or to use a seal of any
6 design not approved by the board.

7 Section 9. Fees.--(a) The fee for an applicant for
8 licensure as a professional engineer, professional land surveyor
9 [or], professional geologist or professional forester, including
10 examination, and for examination or certification, or both, as
11 an engineer-in-training or a surveyor-in-training, shall be as
12 fixed by the board by regulation and shall be subject to review
13 in accordance with the act of June 25, 1982 (P.L.633, No.181),
14 known as the "Regulatory Review Act." If the revenues generated
15 by fees, fines and civil penalties imposed in accordance with
16 the provisions of this act are not sufficient to match
17 expenditures over a two-year period, the board shall increase
18 those fees by regulation, subject to review in accordance with
19 the "Regulatory Review Act," such that the projected revenues
20 will meet or exceed projected expenditures.

21 (b) If the Bureau of Professional and Occupational Affairs
22 determines that the fees established by the board are inadequate
23 to meet the minimum enforcement efforts required, then the
24 bureau, after consultation with the board, shall increase the
25 fees by regulation, subject to review in accordance with the
26 "Regulatory Review Act," such that adequate revenues are raised
27 to meet the required enforcement effort.

28 (c) All persons now qualified and engaged in the practice of
29 engineering, land surveying [and], geology and forestry, or who
30 shall hereafter be licensed by the board, shall register,

1 biennially, with the board and pay the fee for each biennial
2 registration. All fees collected under the provisions of this
3 act shall be received by the board and shall be paid into the
4 Professional Licensure Augmentation Account.

5 Section 10.2. Reporting of Multiple Licensure.--Any licensee
6 of this Commonwealth who is also licensed to practice
7 engineering, land surveying [or] geology or forestry in any
8 other state, territory or country shall report this information
9 to the board on the biennial renewal application. Any
10 disciplinary action taken in other states, territories or
11 countries shall be reported to the board on the biennial renewal
12 application or within ninety days of final disposition,
13 whichever is sooner. Multiple licensure shall be noted by the
14 board on the engineer's, land surveyor's [or] geologist's or
15 forester's record, and each state, territory or country shall be
16 notified by the board of any disciplinary action taken against
17 the licensee in this Commonwealth.

18 Section 11. Penalties.--(a) Whoever shall engage in the
19 practice of engineering, the practice of land surveying [or] the
20 practice of geology or the practice of forestry without
21 being licensed and registered as required by this act, or
22 exempted therefrom, as provided in this act, or shall present or
23 attempt to use, as his own, the license or certificate of
24 registration of another, or shall give any false or forged
25 evidence of any kind to the board, or to any member thereof, in
26 order to obtain a license or registration as a professional
27 engineer, professional land surveyor [or] professional
28 geologist or professional forester or a certificate as an
29 engineer-in-training or surveyor-in-training, or shall use any
30 expired, suspended or revoked certificate of registration, or

1 shall otherwise violate the provisions of this act, shall be
2 guilty of a summary offense and upon conviction thereof for a
3 first offense, shall be sentenced to pay a fine not exceeding
4 one thousand dollars, or suffer imprisonment, not exceeding
5 three months, or both and for a second or subsequent offense
6 shall be guilty of a felony, and upon conviction thereof, shall
7 be sentenced to pay a fine of not less than two thousand dollars
8 but not more than five thousand dollars or to imprisonment for
9 not less than one year but not more than two years, or both.

10 (b) In addition to any other civil remedy or criminal
11 penalty provided for in this act, the board, by a vote of the
12 majority of the maximum number of the authorized membership of
13 the board as provided by law, or by a vote of the majority of
14 the duly qualified and confirmed membership or a minimum of
15 [six] seven members, whichever is greater, may levy a civil
16 penalty of up to one thousand dollars on any current licensee
17 who violates any provision of this act or on any person who
18 practices the profession of an engineer, land surveyor [or] L
19 geologist or forester without being properly licensed to do so
20 under this act. The board shall levy this penalty only after
21 affording the accused party the opportunity for a hearing, as
22 provided in Title 2 of the Pennsylvania Consolidated Statutes
23 (relating to administrative law and procedure).

24 (c) All fines and civil penalties imposed in accordance with
25 this section shall be paid into the Professional Licensure
26 Augmentation Account.

27 Section 11.1. Injunction Against Unlawful Practice.--It
28 shall be unlawful for any person to practice, or attempt to
29 offer to practice, engineering, land surveying [or] L geology or
30 forestry, as defined in this act, without having at the time of

1 so doing a valid, unexpired, unrevoked and unsuspended license
2 issued under this act. The unlawful practice of engineering,
3 land surveying [or], geology or forestry, as defined in this
4 act, may be enjoined by the courts on petition of the board or
5 the Commissioner of Professional and Occupational Affairs. In
6 any such proceeding, it shall not be necessary to show that any
7 person is individually injured by the actions complained of. If
8 the respondent is found guilty of the unlawful practice of
9 engineering, land surveying [or], geology or forestry, the court
10 shall enjoin him from so practicing unless and until he has been
11 duly licensed. Procedure in such cases shall be the same as in
12 any other injunction suit. The remedy by injunction hereby given
13 is in addition to any other civil or criminal prosecution and
14 punishment.

15 Section 8. Within 90 days of the effective date of this act,
16 the Governor shall nominate one forester to serve a six-year
17 term and one forester to serve a four-year term on the State
18 Registration Board for Professional Engineers, Land surveyors,
19 Geologists and Foresters.

20 Section 9. This act shall take effect in 60 days.