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PROFESSIONAL ENGINEERS & GEOSCIENTISTS NEWFOUNDLAND & LABRADOR
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Guideline for Permit Holders & Companies Employing Engineers and Geoscientists

Professional Engineers & Geoscientists

Newfoundland and Labrador

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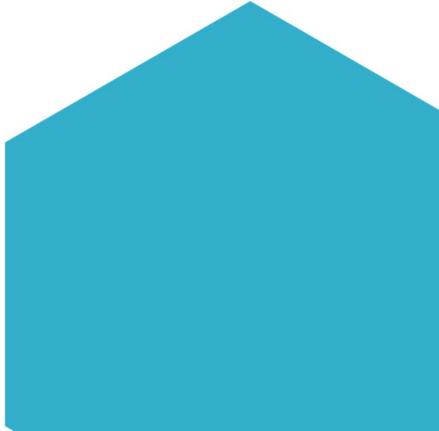
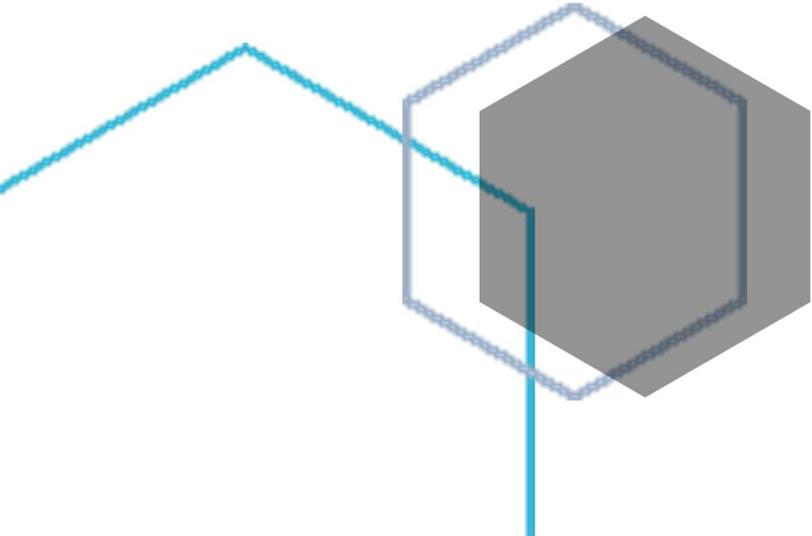


Table of Contents

1.0	Introduction	2
1.1	PEGNL.....	2
1.2	Purpose of the Guideline for Permit Holders and Companies Employing Engineers and Geoscientists	2
1.3	Definitions.....	3
1.4	Responsibilities of Professional Members and Permit Holders	4
1.5	Effect of Not Adhering to the Guideline	5
2.0	Need for a Permit to Practice	5
3.0	Requirements for All Employers of Engineers and Geoscientists.....	5
3.1	Licensure	6
3.2	Title Restrictions	6
3.3	Authentication of Documents.....	6
3.4	Professional Responsibility	6
3.5	Non-Registered Managers	6
3.6	Professional Development.....	7
3.7	Leadership and Professionalism	7
3.8	Joint Ventures and Partnerships.....	7
4.0	Permit Holders	7
4.1	Permit to Practice Requirements	7
4.2	Significance of a Permit to Practice	8
4.3	Additional Requirements for Permit Holders.....	8
4.3.1	Organizational Responsibilities	8
4.3.2	Member(s) in Responsible Charge (MIRC).....	9
4.3.3	Authentication of Documents.....	9
4.3.4	Continuing Liability Insurance Coverage Requirements	10

1.0 Introduction

1.1 PEGNL

Professional Engineers and Geoscientists Newfoundland & Labrador (PEGNL) is mandated by the Province to regulate the practices of engineering and geoscience in the public interest. PEGNL exists so that there will be competent and ethical practice of engineering and geoscience in Newfoundland and Labrador, and to instill public confidence in the professions. To practice Engineering or Geoscience in Newfoundland and Labrador, a person must be registered and in good standing with PEGNL. In addition, companies (including sole proprietors) offering engineering and geoscience services outside of their organizations (i.e., to any natural or legal entity external to their company) also require a PEGNL permit to practice.

The Newfoundland and Labrador **Engineers and Geoscientists Act, 2008** and the associated **Engineers and Geoscientists Regulations, 2011** under that Act govern the practices of engineering and geoscience in the Province. PEGNL is the authority that registers practitioners and companies under the Act, administers all aspects of that legislation and strives to ensure the competent practice and ethical conduct of all professional members and permit holders.

Under Section 36 of the Regulations, PEGNL has the power to produce publications for the purpose of: (a) promoting high standards of professional services; (b) outlining the scope of professional services which shall define for clients the services to be expected from a consulting engineer or geoscientist; (c) assisting clients in the selection of professional engineers and geoscientists for professional services.”

PEGNL produces such documents to inform and educate its professional members, permit holders, and the public, in matters of professional practice and to:

- make PEGNL professional members and permit holders, aware of their duties in performing specific components of their professional roles in accordance with the current *Act, Regulations and By-Laws*; and
- help the public understand the role of PEGNL professional members and permit holders and the responsibilities they have when performing professional services.

Professional members and permit holders adhering to these Guidelines are following best practices established by PEGNL in conforming to the applicable legislation and related ethical practices.

Questions or concerns relating to this document should be addressed to the Professional Standards Director at PEGNL.

1.2 Purpose of the Guideline for Permit Holders and Companies Employing Engineers and Geoscientists

This guideline provides guidance on:

1. When a permit to practice is required;

2. Expectations of organizations employing engineers and geoscientists; and
3. Requirements of organizations operating under a permit to practice.

Under Section 12 of the Engineers and Geoscientists Act, every “professional member, partnership, corporation or other association of persons that proposes to provide the services of a professional member directly to the public shall apply to the board for a permit to provide those services”. Under PEGNL guidelines, “the public” includes all organizations or individuals outside the organization providing the services.

Organizations offering engineering or geoscience services or otherwise employing engineers and geoscientists shall operate with the highest regard for the safety, health and welfare of their employees, their clients and the general public. This guideline was developed to guide these organizations in the management of the practices of engineering and geoscience in a way that meets the interests of the people of Newfoundland and Labrador in accordance with the Act.

1.3 Definitions

Act

The Newfoundland and Labrador *Engineers and Geoscientists Act, 2008*.

PEGNL

Professional Engineers and Geoscientists Newfoundland and Labrador .

Discipline

A specific field of practice within the professions governed by the Act (e.g., civil engineering, electrical engineering, geology, environmental geoscience, etc.).

Engineering (as defined in the Act)

Means reporting on, advising on, evaluating, designing, preparing plans and specifications for or directing the construction, technical inspection, maintenance or operation of a structure, work or process that:

- (i) is aimed at the discovery, except by the practice of geoscience, development or utilization of matter, materials or energy or is designed for the use and convenience of human beings; and
- (ii) requires in the reporting, advising, evaluating, designing, preparation or direction, the professional application of the principles of mathematics, chemistry, physics or a related applied subject,

and includes providing educational instruction on the matters contained in this paragraph to a student at an educational institution, but excludes practicing as a natural scientist.

Geoscience (as defined in the Act)

Means reporting on, advising on, evaluating, interpreting, processing, geological and geophysical surveying, exploring, classifying reserves or examining activities related to the earth sciences or engineering geology that:

- (i) is aimed at the discovery or development of oil, natural gas, coal, metallic or non-metallic minerals or precious stones, water or other natural resources or that is aimed at the investigation of geoscientific conditions; and
- (ii) requires in the reporting, advising, evaluating, interpreting, processing, geoscientific surveying, exploring, reserve classifying or examining, the professional application of mathematics, chemistry or physics through the application of the principles of geoscience,

and includes providing educational instruction on the matters contained in this paragraph to a student at an educational institution.

Integrity (of project documents)

Means having an “unimpaired condition”; remaining in its original form and having been unchanged since it was authenticated. It requires that the document medium used provides stability and the required longevity of the information.

Member in Responsible Charge (MIRC)

A professional member of PEGNL who undertakes to provide responsible direction and personal oversight for a specific discipline of practice performed by a permit holder in which the professional member is personally competent. The MIRC is specifically named on the Permit to Practice as taking responsibility for a specific discipline of practice.

Permit Holder

A corporation, partnership, professional member or association of persons that holds a permit to practice under the *Act*. A permit holder has a *permit number* issued by PEGNL to engage in the practices of engineering or geoscience.

Person

An individual, as well as a corporation, company, association, firm, partnership, society or other organization.

Professional document

A document in any medium (e.g., paper, electronic or other) that contains or presents engineering or geoscience work as defined under the *Act*.

Professional Member

An engineer, geoscientist, limited licensee (engineering), or limited licensee (geoscience) entitled to engage in the practice of engineering or geoscience under the *Act*.

Regulations

The *Engineers and Geoscientists Regulations, 2011*.

1.4 Responsibilities of Professional Members and Permit Holders

Professional members and permit holders are responsible for practicing in accordance with the *Act*, Regulations and By-laws including the PEGNL Code of Ethics.

A permit holder is corporately responsible for the integrity of its project documents. The integrity of project documentation can be ensured by retaining the original authenticated document and digitally authenticating any electronic documents distributed to third parties, allowing identification of any changes that might be made without the originator’s knowledge or consent (refer to PEGNL’s Authentication Guideline for acceptable digital authentication methods). A permit holder is responsible to establish a system that enables engineering or geoscience practice to be performed by professionals with relevant education and experience. A permit holder is also responsible to establish quality control procedures with an aim to preclude errors and omissions.

Professional members, permit holders and Members in Responsible Charge are ethically bound through legislation to meet professional standards and are therefore subject to allegations under the *Act* made by the public, other PEGNL members or the PEGNL Registrar through PEGNL’s disciplinary processes.

1.5 Effect of Not Adhering to the Guideline

Liability is defined as a legal responsibility for some actual or potential harm or loss caused to another person. PEGNL has no authority to determine legal liability; jurisdiction to resolve disputes concerning liability rests with the courts. However, PEGNL does have jurisdiction and responsibility to administer the Act, Regulations and By-Laws. Failure to follow this guideline without providing documented, sound professional judgement as to why it was not followed may contravene the requirements of the legislation and lead to disciplinary action for PEGNL members and permit holders or legal proceedings under the Act for unlicensed persons.

2.0 Need for a Permit to Practice

While many organizations that employ professional engineers and geoscientists require a permit to practice, those who do not provide services outside their own organization do not. Even organizations not requiring a permit to practice are expected to follow the requirements listed in Section 3.0 of this guideline. Typically, these entities provide services or products that are not professional services, even though professional members are a key part of the organization.

A prime example is an electric utility selling electricity to its customers. The utility typically does not sell engineering services to its customers, and therefore does not require a permit to practice. This is true even though significant engineering is involved in ensuring delivery of the electricity to the customer. Even when a permit to practice is not required, all engineers working in the utility must be professional members of PEGNL. If however, the utility does provide an engineering service to anyone outside the organization, it must have a permit to practice, even though the provision of that service may not be its primary business.

Another example would be a mining operation, which employs numerous geoscientists to produce their end product but does not offer geoscience services outside its own organization. Again, while significant geoscience practice is required in producing the product, because the geoscience practice is not being offered outside the mining company, a permit to practice is not required.

3.0 Requirements for All Employers of Engineers and Geoscientists

All organizations involved in the administration or practice of engineering and/or geoscience, including permit holders, must ensure that they comply with all legislated requirements of the Engineers and Geoscientists Act and Regulations. In order to meet those requirements, they should confirm that all of the following requirements are met:

3.1 Licensure

The definitions of what constitutes engineering and geoscience, as taken from the Act and included in section 1.3 above, are very broad and all-encompassing. Organizations employing engineers and geoscientists should ensure that their employees practicing within these definitions are professional members of PEGNL in accordance with the Act.

3.2 Title Restrictions

Only professional members in good standing with PEGNL are permitted to use the designations “P. Eng.,” “P. Geo.,” “Eng. L.” or “Geo. L.” or to have titles containing the words “engineer, engineering, geoscientist, geologist, geophysicist or geochemist” in any combination that implies they are registered to practice the professions. Organizations must not assign restricted titles to persons not registered with PEGNL. There is an exception however, for titles such as power engineer, stationary engineer, engineering technologist etc. which are titles that have long been in use but are generally understood to not imply an entitlement to practice engineering.

3.3 Authentication of Documents

Documents with engineering and geoscientists technical content that may be relied upon by others must be authenticated (signed and dated professional stamp affixed) by a PEGNL professional member who takes responsibility for the work. Authentication must be in accordance with the PEGNL Guideline for the Authentication of Professional Documents. Organizations must ensure that only professional members in good standing with PEGNL are permitted to undertake and/or authenticate engineering and geoscience work.

3.4 Professional Responsibility

When engineering or geoscience work is being performed, those professional members closest to the work are usually in the best position to accept responsibility for it. While this typically means the person actually performing the work, it can also mean that person's supervisor or it can mean a professional member who may be somewhat removed from doing the detailed work, but who makes decisions regarding the integration of various components of engineering or geoscience. Organizations should ensure that the person taking professional responsibility for the work is completely familiar with all aspects and implications of the work.

3.5 Non-Registered Managers

Those who oversee or manage professional members are not always professional members. Organizations with non-registered managers or supervisors should ensure that such people do not make engineering or geoscience decisions. The organization should also ensure that these managers or supervisors understand the types of engineering and geoscience decisions that professional members reporting to them make, and the professional responsibility associated with those decisions. The primary ethical responsibility of a professional member is the safety and welfare of the public. The organization and its management team should understand and support this primary obligation.

To assist in ensuring their obligations to the public are met, professional members should develop a good sense of professional self-awareness, good communication skills and the ability to successfully navigate potential conflicts that may arise due to business pressures.

3.6 Professional Development

Ongoing professional development of professional members is a legislated requirement of licensure in Newfoundland and Labrador and throughout most of Canada. Employers of engineers and geoscientists should take an active role in the continuing professional development of professional members employed by them.

3.7 Leadership and Professionalism

An important element of maintaining an atmosphere of professionalism within an organization is the leadership shown by senior management as well as by senior professional members in the organization. Leaders can enhance professionalism within their organization by;

- Encouraging and supporting participation in professional associations, such as PEGNL, and in technical associations, such as Institute of Electrical and Electronics Engineers, Inc. (IEEE); Canadian Society for Civil Engineering (CSCE); Geological Association of Canada (GAC); and many others;
- Highlighting professional development activities to their professional staff and encouraging participation; and
- Ensuring the organization conforms to the requirements of this guideline.

3.8 Joint Ventures and Partnerships

Many engineering and geoscience activities are undertaken jointly by several organizations, through the use of consultants, joint ventures or other organizational forms. Division of responsibilities between firms and individuals should be clearly defined in a management system particular to the activity, ensuring that the quality of engineering or geoscience decisions are not compromised or impeded. Such organizations should ensure that professional responsibility is properly allocated and assumed.

4.0 Permit Holders

4.1 Permit to Practice Requirements

In order to provide engineering or geoscience services directly to the public, Sole proprietors (i.e., those offering services in their name or through a company name), partnerships, corporations or other associations of persons are required to have a permit to practice as detailed in Section 12 of the *Act*. PEGNL guidelines define the “public” in this context as any person or entity receiving professional services who is outside the organization that is providing the professional services.

In addition, if a parent company or joint venture group holds a permit to practice, any subsidiary of that company that provides professional services to the public may also require a permit if the subsidiary is a separate entity with a distinct name.

The one exemption allowed to the requirement for a permit to practice is for a sole practitioner who is offering their services as a contractual employee to a single entity only.

To obtain a permit to practice, an individual, partnership or other association of persons must make application to PEGNL as outlined on its website.

4.2 **Significance of a Permit to Practice**

The permit to practice is an instrument which enables PEGNL to ensure that organizations offering services to the public carry professional liability insurance and have appropriate professional members overseeing the work. The permit holder registered with PEGNL is bound by the same Code of Ethics as for individual professional members. Situations may arise where the interests of the employer or the professional member's duty to the employer, may conflict with the professional member's primary ethical obligation to public protection. The permit to Practice is intended to address this potential conflict by making employers corporately responsible for the professional work that is performed in their organization. The permit holder is subject to the PEGNL disciplinary process which may include restriction or loss of the permit to practice and public notification of a disciplinary matter.

A permit to practice signifies that an organization has committed to implementing and maintaining a Management System that fosters professional practice and that all work is carried out by skilled professionals, qualified by virtue of education and experience, and registered in good standing with PEGNL. It also means the organization has committed:

- i. to only practice in the disciplines for which the permit has been granted by PEGNL;
- ii. that the business of the organization is carried out in accordance with the Code of Ethics; and
- iii. that the quality control procedures of a formal management system are in place to produce complete and accurate documents free of substantial technical errors or omissions.

Additionally, it means that the organization holding a permit to practice is professionally responsible for the integrity of all authenticated documents and that it carries Errors and Omissions or Professional Liability Insurance (PLI) to protect the public.

4.3 **Additional Requirements for Permit Holders**

In addition to the eight requirements listed under Section 3.0 of this guideline, permit holders must adhere to the following requirements:

4.3.1 Organizational Responsibilities

Effective control of the quality of professional practice in partnerships, corporations and other such entities requires that the employer of professional members provides the atmosphere and organizational structure necessary for the proper practice of the professions. This involves three distinct levels and types of responsibility:

- *Management*
The Chief Executive Officer (CEO) or equivalent or their Authorized Designate undertakes to maintain an organization in which the practice of professional

members is conducted in accordance with the intent of the legislation including the Code of Ethics.

- *Member(s) in Responsible Charge (MIRC) Assuming Responsibility for the Professional Practice*

The MIRC is an employee or associate of the organization who is a professional member of PEGNL and who undertakes to provide responsible direction and personal oversight in a specific discipline of professional practice in which the member is personally competent. The Member in Responsible Charge agrees to oversee the professional practice for which they have assumed responsibility in strict accordance with the requirements of relevant legislation (see 4.3.2 below).

- *Members Performing or Supervising the Work*

The individual professional member of PEGNL who, in accordance with the Code of Ethics, undertakes only such work as they are competent to perform or supervise by virtue of their education and experience. This member assumes full professional responsibility for the work.

4.3.2 Member(s) in Responsible Charge (MIRC)

The MIRC must be qualified by education and experience in the discipline of engineering or geoscience for which they take responsibility and must be available to oversee the activities of that discipline. Qualification as a MIRC is subject to the review and approval of PEGNL. A permit holder must have at least one MIRC for each discipline in which the firm provides professional services to provide responsible direction and oversight. Larger organizations may have more than one MIRC per discipline if they deem it necessary. The MIRCs and CEO or equivalent of the organization jointly assume responsibility for maintaining an organizational environment in which the practice can be conducted in accordance with the Act and Regulations, including ensuring that:

- All those who practice Engineering and Geoscience are professional members.
- Titles are assigned appropriately.
- Company standards at least meet the professions' standards.
- An appropriate quality control system is in place.
- Both permit and member stamps are on all professional documents.
- All members practicing in the MIRC's discipline are encouraged to, and supported in, practicing only within their own area of competence.

4.3.3 Authentication of Documents

Refer to PEGNL's Guideline for Authentication of Professional Documents for detailed requirements for authentication. All final plans, specifications, reports or documents of an engineering or geoscience nature must have the permit holder's permit stamp affixed if these documents are to be issued to and relied upon by others. The permit stamp must be signed by (or the member number inserted for) the MIRC who is assuming responsibility for the discipline in which the work was performed, and all documents must be stamped, signed and dated by the professional member who takes technical responsibility for the

work. Policies regarding permit stamp custody and specific signing authorities must be established by the organization.

4.3.4 *Continuing Liability Insurance Coverage Requirements*

When two or more permit holders merge into a single consolidated entity, or when a permit holder changes insurance companies, they must ensure that all past or in-progress projects of all firms remain covered by professional liability insurance.