

Adopt Soil 500, previously effective 3-11-11 (Document #9866-A), and expired 3-11-19, to read as follows:

CHAPTER Soil 500 ETHICAL STANDARDS

PART Soil 501 RULES OF PROFESSIONAL CONDUCT

Soil 501.01 Purpose and Scope.

(a) To establish and maintain a high standard of integrity, skills and practice in the profession of soil science or wetland science, the following rules of professional conduct shall be binding upon every person holding a certificate of soil science or wetland science and on all partnerships or corporations or other legal entities authorized to offer or perform the practice of soil science or wetland science in this state.

(b) All persons certified under RSA 310-A shall be deemed to be familiar with provisions of Soil 500.

Soil 501.02 Obligation To Obey.

(a) The ethical standards set forth in this part shall bind all certified wetland scientists and soil scientists, and violation of any such standard shall be a basis for imposing disciplinary sanctions. Conduct proscribed by these ethical standards, when performed by an uncertified person, or during a prior period of certification, shall also be a basis for denying an application or issuing a restricted certificate.

(b) All persons certified under RSA 310-A shall be considered to have knowledge of the existence of these rules of professional conduct, and shall be deemed to be familiar with their several provisions. Such knowledge shall encompass the understanding that the practice of soil science or wetland science is a privilege, as opposed to a right, and the certified soil scientist or wetland scientist shall be forthright and candid in their statements or written response to the board or its representatives on matters pertaining to professional conduct.

(c) Certificate holders shall submit only truthful and correct information in any application or other document file with or statement made to the board.

(d) Certificate holders shall inform the board of a principal business/home address to which all official board communications should be directed, and also of all addresses where he/she is practicing. The establishment of a business/home address or the change or abandonment of a business/home address shall be reported to the board within 30 days.

Soil 501.03 Standards of Conduct.

(a) The certified soil and wetland scientist shall hold paramount the safety, health and welfare of the public as follows:

- (1) Perform his/her services only in areas of his/her competence;
- (2) Issue statements only in an objective and truthful manner;
- (3) Act for each employer or client as faithful agents or trustees;

- (4) Refrain from deceptive acts;
 - (5) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession;
 - (6) Undertake to perform soil or wetland science assignments only when qualified by education or experience in the specific technical field of soil or wetland science involved;
 - (7) Accept an assignment requiring education or experience outside of his/her own field of competence, but only to the extent that his/her services are restricted to those phases of the project in which he/she is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees;
 - (8) Not affix his/her signature or seal to any map, plan or document dealing with subject matter for which he/she lacks competence by virtue of education or experience, nor to any such map, plan or document not prepared under his/her direct supervisory control; and
 - (9) Not sell or donate the use of a seal to anyone, recognizing that the seal indicates the soil scientist's or wetland scientist's personal responsibility for the work bearing the seal.
- (b) The certified soil and wetland scientist shall issue public statements only in an objective and truthful manner, as follows:
- (1) Be objective and truthful in all professional reports, statements, or testimony and include all relevant, pertinent and required information in such reports, statements or testimony;
 - (2) When serving as an expert or technical witness before any court, commission, or other tribunal, express an expert opinion only:
 - a. When it is founded upon adequate knowledge of the facts in issue;
 - b. Upon a background of technical competence in the subject matter; and
 - c. Upon honest conviction of the accuracy and propriety of his/her testimony;
 - (3) Issue no statements, criticisms, or arguments on soil and wetland science matters connected with public policy which are influenced or paid for by an interested party, or parties, unless he/she has prefaced his/her comment by explicitly identifying him/herself by disclosing the identities of the party or parties on whose behalf he/she is speaking;
 - (4) Express an opinion or conclusion only upon matters of established fact or direct observation and clearly distinguish professional judgment or opinions from matters of fact or record;
 - (5) Not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another; and
 - (6) If he/she believes that another soil or wetland scientist is guilty of misconduct or illegal practice, he/she shall present such information to the board in writing.

(c) The certified soil and wetland scientist shall avoid conflicts of interest; as follows:

- (1) Promptly inform his/her employer or client of any business associations, interests, or circumstances, which could influence his/her judgment, or the quality of his/her services;
- (2) Not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties;
- (3) Not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products;
- (4) Not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with his/her client or employer in connection with work for which he/she is responsible;
- (5) When in public service as a member, advisor, or employee of a governmental body or department, not participate in considerations or actions with respect to private soil or wetland science services provided by him/her or by his/her organization;
- (6) Not solicit or accept a soil or wetland science contract from a governmental body on which a principal or officer of his/her organization serves as a member;
- (7) Not divulge information given in confidence by a client or employer except as required by law, directly or indirectly, in any way that would violate the confidence of the employer or client;
- (8) Not plagiarize oral or written communications or knowingly accept credit for work rightfully due another person; and
- (9) Reveal to clients, regulators, and/or the public any conflict of interest or circumstances which may interfere with full representation of the scientific facts or their professional opinions.

(d) The certified soil and wetland scientist shall solicit or accept work only on the basis of his/her qualifications; as follows:

- (1) Not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;
- (2) Compete for employment on the basis of professional qualification and competence to perform the work;
- (3) Not solicit or submit proposals for professional services containing false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;
- (4) Not falsify or permit misrepresentation of his/her, or his/her associates', academic or professional qualifications;

- (5) Not misrepresent his/her degree of responsibility in or for the subject matter of prior assignments;
 - (6) Not distribute brochures or other presentations incident to the solicitation of employment which shall misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications and his/her work; and
 - (7) Limit public advertising to a description of the services available;
 - (8) Act for the client or employer as a finder of facts in developing soil maps and wetland maps and related material and shall provide a product that accurately depicts soils and wetlands as a natural body on the landscape;
 - (9) Advise the client of the level of accuracy and limitations of the soil maps and wetland maps relative to the intended use; and
 - (10) Indicate the standards of classification and mapping used.
- (e) The certified soil and wetland scientist shall perform his/her services in an ethical and lawful manner, as follows:
- (1) Not knowingly associate with or permit the use of his/her name or firm name in a business venture by any person or firm which he/she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature;
 - (2) Cooperate with another soil scientist or wetland scientist with an interchange of information where such interchange does not conflict with confidential matters between the soil scientist or wetland scientist and his/her client;
 - (3) Not attempt to injure another soil or wetland scientist's reputation, prospects, practice or employment;
 - (4) If he/she has knowledge or reason to believe that another person or firm may be in violation of any of these provision or provisions of RSA 310-A, present such information to the board in writing and cooperate with the board in furnishing such further information or assistance as may be required by the board; and
 - (5) Cooperate with investigations and requests for information from the board and the boards representatives.

PART Soil 502 VOLUNTARY CERTIFICATE SURRENDER

Soil 502.01 Procedure for Surrendering Certificate Any person holding a certificate may voluntarily surrender that certificate by returning it to the board accompanied by a signed letter stating that he/she intends to surrender his/her certificate.

Soil 502.02 Effect of Voluntary Certificate Surrender.

(a) A certified soil and wetland scientist who voluntarily surrenders a certificate shall retain no right or privilege to practice soil or wetland science in New Hampshire unless specifically set forth in a board order or settlement agreement authorizing the voluntary surrender. Unless otherwise provided by the board, a certified soil and wetland scientist who reapplies for certification in New Hampshire after a voluntary surrender shall have the burden of proving compliance with all of the requirements then in effect for new applicants, including professional character requirements.

(b) Surrender or non-renewal of a certificate shall not preclude the board from investigating or completing a disciplinary proceeding based upon the certified soil or wetland scientist's professional conduct while the certificate was still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.

Soil 502.03 Voluntary Surrender When Misconduct Allegations are Pending.

(a) A certified soil and wetland scientist who wishes to surrender his/her certificate as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.

(b) Any settlement agreement reached under (a), above, shall include the following concessions:

(1) That the certified soil and wetland scientist surrender has occurred in settlement of pending disciplinary charges; and

(2) That the pending disciplinary allegations shall be issues to be resolved in any future application the certified soil and wetland scientist may submit in New Hampshire.

(c) The board shall decline to accept a settlement agreement under (a), above, if the board believes the certified soil and wetland scientist has declined to disclose material information concerning the alleged misconduct or has refused to stipulate to the truth of specific material facts concerning the alleged misconduct which would be necessary to protect the public interest in the event the individual subsequently reapplies for a certificate.

(d) A certified soil and wetland scientist's stipulation of facts shall be exempt from public disclosure to the extent permitted by RSA 91-A if the public portion of the settlement agreement or surrender document expressly states that a separate, confidential stipulation of facts is on file with the board.

(e) The fact of certificate surrender and the terms of any settlement agreement pertaining thereto shall be distributed to all relevant licensing authorities and professional societies in the same manner as a final decision containing specific finding of professional misconduct.

APPENDIX

Rule	Statute Implemented
Soil 501	RSA 310-A:82, VI
Soil 502	RSA 310-A:82, VI, RSA 310-A:94