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Form #3

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Patsy A. Hardy
Authorized Signature

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 20CSR4 State Board of Sanitarians-Rules Governing the Practice of Public Health Sanitation

Type of Rule: X Legislative Interpretive Procedural

Agency: Health and Human Resources

Address: 1900 Kanawha Blvd. East
Bldg. 3, Room 206
Charleston, WV 25305

Phone Number: 304-558-2971 Email: Ann.A.Goldberg@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what effect this measure will have on costs and revenues of state government.

This Legislative Rule is required due to changes during the 2010 Legislative Session to WV Code §30-17-6 which requires the State Board of Sanitarians to promulgate a Legislative Rule governing the practice of Public Health Sanitation. The rule allows the State Board of Sanitarians to establish an annual registration fee. The Board name has been changed from the WV Board of Registration for Sanitarians to the State Board of Sanitarians.

Estimated increase in revenue is \$6,750.00.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

Effect of Proposal	Fiscal Year		
	2010 Increase/Decrease (use "-")	2011 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services			
Current Expenses			
Repairs and Alterations			
Equipment			
Other			
2. Estimated Total Revenues		6,750	6,750

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The estimated total revenue is based on approximately 225 sanitarians in West Virginia who are required to register with the State Board of Sanitarians to be able to legally practice Public Health Sanitation. Any person being issued a permit, certificate, or license shall pay an annual fee of \$50.00. This is an increase from the current \$20 fee.

$225 \times \$30.00 (\$50 - \$20) = \$6,750.00$

Memorandum

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date

July 30, 2010

Agency

Department of Health and Human Resources

Authorized Representative

Patsy A. Hardy
Patsy A. Hardy
Cabinet Secretary

State Board of Sanitarians

Legislative Rule, 20CSR04

Rules Governing the Practice of Public Health Sanitation

Office of Environmental Health Services

Bureau for Public Health

Department of Health and Human Resources

BRIEF SUMMARY

This rule sets forth standards for the regulation and conduct of members, records, applications and examinations. There will be three classifications of sanitarians: Sanitarian-in-Training, Sanitarian and Registered Sanitarian. The rule allows the State Board of Sanitarians to establish an annual registration fee. The Board name has been changed from the WV Board of Registration for Sanitarians to the State Board of Sanitarians. This legislative rule replaces the Emergency rule, Interim Fee Increase, 20CSR03, only in the single respect that it establishes the fees going forward for sanitarians to pay annually to the Board at the end of the statutory time for the Interim fee to be in effect, i.e., on December 31, 2011.

STATEMENT OF CIRCUMSTANCES

This rule is required to comply with the statutory changes made to the article on the Board of Sanitarians in HB 4142 passed in the 2010 legislative session. The bill contained a major re-write of WV Code §30-17.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: June 2010

TO: **LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

FROM: (Agency Name, Address & Phone No.) Ann A. Goldberg
Bureau for Public Health
350 Capitol Street, Rm. 702
Charleston, WV 25301
304 558-2971

LEGISLATIVE RULE TITLE: _____
**RULES GOVERNING THE PRACTICE OF
PUBLIC HEALTH SANITATION 20CSR04**

1. Authorizing statute(s) citation _____
WV Code §30-17-6.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 2010

b. What other notice, including advertising, did you give of the hearing?
N/A

c. Date of Public Hearing(s) *or* Public Comment Period ended:

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

N/A

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Ann Goldberg, Director,
Public Health Regulations
350 Capitol Street, Rm. 702
Charleston, WV 25301
304 558-0035 - phone
~~304 559-1035~~ - fax
ann.a.goldberg@wv.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Brad Cochran, Director, Public Health Sanitation
Office of Environmental Health Services
Bureau for Public Health
350 Capitol Street
Charleston, WV 25301
~~304 558-2981~~ phone
304 558-1071 fax
brad.j.cochran@wv.gov

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

n/a

b. Date of hearing or comment period:

From June 2010 to July 2010

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

n/a

d. Attach findings and determinations and reasons:

Attached n/a

TITLE 20

LEGISLATIVE RULE
STATE BOARD OF SANITARIANS

SERIES 4

RULES GOVERNING THE PRACTICE
OF PUBLIC HEALTH SANITATION

FILED

2010 JUL 29 AM 11:39

OFFICE WEST VIRGINIA
SECRETARY OF STATE**§20-4-1. General.**

1.1. Scope -- This rule sets forth standards for the regulation and conduct of members, records, applications and examinations for persons employed as public health sanitarians. This rule is binding upon persons applying and registered under WV Code §30-17-1, et seq. and is applicable to individuals practicing public health sanitation and holding a permit, certificate or license of authorization.

1.2. Authority -- WV Code §30-17-6.

1.3. Filing Date --

1.4. Effective Date --

1.5. Applicability -- This rule applies to all applicants for permit, certificate or license to practice public health sanitation in this state. This rule continues the emergency rule, Interim Fee Increase, 20CSR03, filed May 18, 2010, until it expires by operation of the statute, WV Code §30-17-6(c). Thereafter, the provision for fees in this rule shall govern.

§20-4-2. Definitions.

2.1. Board - means the State Board of Sanitarians.

2.2. Bureau - means the West Virginia Bureau for Public Health.

2.3. Certificate - means a document issued as evidence of qualifications to practice public health sanitation under the provisions of this article.

2.4. Environmental Health Science - means public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation and rabies control.

2.5. License - means a document issued as evidence of knowledge and the qualification to practice environmental health science under this article.

2.6. NEHA - means the National Environmental Health Association.

2.7. Permit - means a document issued as evidence of qualification to practice as a sanitarian-in-training under this article.

2.8. PES - means the Professional Examination Service.

2.9. Practice of Public Health Sanitation - means the consultation, instruction, investigation, inspection or evaluation by an employee of the bureau or municipal or county health department with the primary purpose of improving or conducting administration of enforcement of state laws and rules.

2.10. Registered Sanitarian - means a person who is licensed under the provisions of this rule who has successfully passed a national examination and who possesses the educational qualifications and experience requirements to be a Registered Sanitarian.

2.11. Sanitarian - means a person who is certified by the board as being qualified by education in the arts and sciences, specialized training, and credible field experience to assist in the enforcement of public health laws and environmental sanitation regulations, and to effectively plan, organize, manage, evaluate and execute one or more of the many diverse disciplines comprising the field of public health sanitation.

2.12. Sanitarian-in-Training - means a person who possesses the necessary educational qualifications as prescribed in this rule for certification as a sanitarian, but who has not completed the experience requirements in the fields of public health sanitation as required for certification.

§20-4-3. Standards and requirements for a permit, certificate, or license.

3.1. Applications. A person applying to the Board for a permit, certificate or license shall submit to the Board:

- 3.1.a. A completed application on forms prescribed by the Board;
- 3.1.b. Payment to the Board of the appropriate application fee; and
- 3.1.c. Any additional documentation required by the Board.

3.2. Standards for Sanitarian-in -Training. To be eligible to be issues a permit as a sanitarian-in-training, an applicant shall:

- 3.2.a. Be of good moral character;
- 3.2.b. Be a graduate with a baccalaureate or higher degree from an accredited college or university;
- 3.2.c. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board within 12 months of being hired.
- 3.2.d. Practice as a sanitarian-in-training for a period not to exceed three years.

3.3. The Board may waive the requirements of subdivisions 3.2.c. and 3.2.d. for a person who experiences an undue hardship.

3.4. Standards for Sanitarian. To be eligible to be certified as a sanitarian, the applicant shall:

- 3.4.a. Be of good moral character;
- 3.4.b. Be a graduate with a baccalaureate or higher degree from an accredited college or university;
- 3.4.c. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board;

3.4.d. Have at least two years of experience in the field of public health sanitation, Provided, That an applicant may substitute a successfully completed master's or higher degree in public health, sanitary science, environmental science, community hygiene or other science field as approved by the Board for one of the required years of experience.

3.5. Standards for Registered Sanitarian. To be eligible to be licensed as a registered sanitarian, the applicant shall:

3.5.a. Be of good moral character;

3.5.b. Be a graduate with a baccalaureate or higher degree from an accredited college or university;

3.5.c. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board;

3.5.d. Have at least two years of experience in the field of public health sanitation; Provided, That, an applicant may substitute a successfully completed master's or higher degree in public health, environmental science, sanitary science, community hygiene or other science field as approved by the Board for one of the required years of experience; and

3.5.e. Pass an examination as required by the board.

3.6. Any person holding a registration issued under a prior enactment of WV Code §30-17-1, et seq., and this rule shall be eligible to renew his or her license in accordance with the provisions of this rule.

§20-4-4. Reciprocity.

4.1 The Board may issue a certificate or a license to practice environmental health science or public health sanitation in this state, without requiring an examination, to an applicant from another jurisdiction who:

4.1.a. Is of good moral character;

4.1.b. Holds a valid sanitarian license or other authorization to practice environmental health science or public health sanitation in another jurisdiction and meets requirements which are substantially equivalent to the requirements set forth in WV Code §30-17-1 et seq., and this rule;

4.1.c. Is not currently being investigated by a disciplinary authority of this state or another jurisdiction, does not have charges pending against his or her license or other authorization to practice environmental health science or public health sanitation, and has never had a license or other authorization to practice environmental health science or public health sanitation revoked;

4.1.d. Has paid all applicable fees;

4.1.e. Completes food and onsite wastewater training and any additional training as determined by the Board; and

4.1.f. Completes other action as required by the Board.

§20-4-5. Procedures for Issuance and Renewals.

5.1. Any person regulated by this rule shall renew their permit, certificate or license annually, by completing an application as prescribed in section 3.1 of this rule.

5.2. Permits, certificates and licenses expire at midnight on the thirty-first day of December following the date of issuance.

5.3. At least 30 days prior to the first day of January of each year, the Board shall mail to every person regulated by this rule an application for renewal.

5.4. A fee of \$50.00 shall accompany any application for issuance or renewal of a permit, certificate, or license.

5.5. A late fee of \$15.00 shall be assessed by the Board for any renewal that is not received within 30 days of expiration.

5.6. Any person applying for a renewal of a permit, certificate or license must show proof of having completed 15 hours of Board approved continuing education within the prior calendar year.

5.7. Expired permits, certificates or licenses for failure to pay renewal fees may be reinstated only upon the payment of all lapsed renewal fees up to five years and submit to training approved by the board, if in excess of five years.

5.8. Permits, certificates and licenses not renewed for failure to obtain the required 15 hours of continuing education shall not be renewed during the current fiscal year.

5.9. The Board may deny an application for renewal for any reason which would justify the denial of an original application for a permit, certificate or license.

5.10. Any person regulated by the Board shall carry proof of a valid permit, certificate, or license as required in WV Code §30-17-14.

§20-4-6. Exempt from permit, certificate, or license.

Any person or qualified member of other recognized professions practicing environmental health science consistent with the laws of this state, shall be exempt from obtaining a permit, certificate or license under this rule provided the person does not represent themselves as a sanitarian-in-training, sanitarian or registered sanitarian, as defined by WV Code §30-17-3 and this rule.

§20-4-7. Standards for Approval of Courses.

7.1. All persons regulated by this rule are responsible for submitting to the Board pertinent information regarding courses attended for continuing education approval.

7.2. Information shall include the following:

7.2.a. Verification of attendance; and

7.2.b. An agenda or outline of the course which includes the date and length of the course.

7.3. The Board reserves the right to request additional information, when necessary.

7.4 A maximum of five hours for conducting food worker training classes may be requested annually in lieu of other course attendance by submitting dates and course length to the Board.

§20-4-8. Examinations.

8.1. Only persons who meet the education requirements in this rule, shall be eligible for admission to examination for registration as a sanitarian.

8.2. Sanitarians-in-training shall be eligible for admission to examination for registration as a sanitarian after successfully completing a sanitarian's training course of a minimum of 300 hours as approved by the Board.

8.3. Examination for registration of sanitarians shall be administered not less than once each calendar year in the state at such times and places as may be specified from time to time by the Board. Such examination may be written, oral, or both written and oral.

8.4. Any registered sanitarian who is a member of the Board or designated by the Board shall be eligible to proctor the examination.

8.5. The Board shall administer the PES examination titled "Registration of Sanitarians Environmental Health Proficiency Examination".

8.6. It is the responsibility of the applicant requesting the examination to pay the examination fee set forth by PES.

8.7. A score of 70 percent shall be required to be considered a passing score for the PES examination.

8.8. The Board shall provide written notification to an applicant that he or she passed or failed the examination.

8.9. If an applicant fails to meet the minimum grade requirements on his or her examination, he or she may be reexamined at any time and place specified by the Board for the administration of such examination and upon resubmitting his or her application accompanied by the prescribed fees.

8.10. The Board shall accept The NEHA "Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS)" credential in lieu of passage of the PES examination with proper documentation.

8.11. The Board, at its discretion, may contract with a third party to administer the examination which may include an additional administrative fee to be paid by the individual taking the test.

§20-4-9. Use of Title.

Only a person who has qualified as a registered sanitarian and who holds a valid current license for use in this state shall have the right and privilege of using the title, "registered sanitarian" and to use the abbreviation, "R.S." after his or her name.

§20-4-10. Suspension or Revocation of Permits, Certificates and Licenses.

10.1. The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend or revoke the license, permit or certificate of, impose probationary conditions upon, or take disciplinary action against, any licensee, permittee or certificate holder for any of the following reasons:

10.1.a. Obtaining a license, permit or certificate by fraud, misrepresentation or concealment of material facts;

10.1.b. Being convicted of a felony or other crime involving moral turpitude;

10.1.c. Being guilty of unprofessional conduct which placed the public at risk;

10.1.d. Violating this article or lawful order of the board;

10.1.e. Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization denied by the proper authorities of another jurisdiction, irrespective of intervening appeals and stays; or

10.1.f. Engaging in any act which has endangered or is likely to endanger the health, welfare or safety of the public.

10.2. For the purposes of this section, disciplinary action may include:

10.2.a. Reprimand;

10.2.b. Probation;

10.2.c. Administrative fine, not to exceed \$1,000 per day per violation;

10.2.d. Mandatory attendance at continuing education seminars or other training;

10.2.e. Practicing under supervision or other restriction;

10.2.f. Requiring the licensee, permittee or certificate holder to report to the board for periodic interviews for a specified period of time; and

10.2.g. Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

§20-4-11. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule have the right to request a contested case hearing in a manner pursuant to the provisions of WV Code §29A-5-1, et seq. and legislative rule, State Board of Sanitarians, Rules of Procedure for Contested Case Hearing and Declaratory Rulings, 20CSR01.