

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

FILED

2013 JUL 24 PM 12:00

CLERK OF COURTS
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: STATE BOARD OF SANITARIANS (by & through the Bureau for Public Health) TITLE NUMBER: 20

CITE AUTHORITY: WV Code §30-17-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: THE PRACTICE OF PUBLIC HEALTH SANITATION

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

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: July 23, 2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Board of Sanitarians
350 Capitol Street, Room 313
Charleston, WV 25301
(304) 558- 2981

LEGISLATIVE RULE TITLE: The Practice of Public Health Sanitation, 20CSR4

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:
May 13, 2013

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

c. Date of Public Hearing(s) *or* Public Comment Period ended:
June 12, 2013

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

Attached _____ No comments received X

- 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 Relation
Bureau for Public Health
350 Capitol Street, Room 702
Charleston, WV 25301
(304) 558-2971
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)

David Thornton, Manager
Office of Environmental Health
350 Capitol Street, Room 313
Charleston, WV 25301
(304) 558-2981
david.p.thornton@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:

May 13 - June 12, 2013

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

d. Attach findings and determinations and reasons:

Attached n/a

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: State Board of Sanitarians

Address: 350 Capitol Street, Room 313
Attn: David Thornton
Charleston, WV 25301

Phone Number: (304) 558-2981 Email: david.p.thornton@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.

There will be no fiscal impact on the state with the revision of this Rule.

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		
	2013 Increase/Decrease (use "-")	2014 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services			
Current Expenses			
Repairs and Alterations			
Buildings			
Equipment			
Land			
Other Assets			
2. Estimated Total Revenues			

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

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

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

Agency

Authorized Representative

Board of Sanitarians

W.C. Harvey III, R.S.
William C. Harvey III
State Board of Sanitarians

State Board of Sanitarians
Legislative Rule, 20CSR4
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 current rule is being amended due to the Professional Examination Board (PES) discontinuing the Registration of Sanitarians Environmental Health Proficiency Examination. The State Board of Sanitarians is amending the rule to adopt the National Environmental Health Association's (NEHA's) Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) Exam.

STATEMENT OF CIRCUMSTANCES

The State Board of Sanitarians is required to offer a nationally recognized proficiency exam for sanitarians eligible for registration as a sanitarian. The NEHA examination is the only remaining examination offered to fulfill this requirement.

TITLE 20
LEGISLATIVE RULE
STATE BOARD OF SANITARIANS

FILED
2013 JUL 24 PM 12:00

SERIES 4
RULES GOVERNING THE PRACTICE OF PUBLIC HEALTH SANITATION

§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 W. Va. 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. -- W. Va. Code §30-17-6.

1.3. Filing Date. -- ~~June 28, 2011.~~

1.4. Effective Date. -- ~~June 28, 2011.~~

1.5. Applicability. -- This rule applies to all applicants for permit, certificate or license to practice public health sanitation in this state.

§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 the law and this rule.

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 W. Va. 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 W. Va. 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 not previously failed an examination for licensure in this state;

4.1.e. Has paid all applicable fees;

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

4.1.g. 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 W. Va. 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 W. Va. 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. A 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"~~ NEHA examination titled "Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) Exam".

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

8.7. ~~A score of 70 percent shall be required to be considered a passing score for the PES examination~~ The Board shall accept the passing score set by the NEHA Exam Peer Review Committee.

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~~ a passing score of 70% on the PES "Registered Sanitarian Proficiency Examination" in lieu of a passing score on the NEHA "REHS/RS" Exam 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.

20CSR4

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 W. Va. Code §29A-5-1, et seq. and legislative rule, State Board of Sanitarians, Rules of Procedure for Contested Case Hearing and Declaratory Rulings, 20CSR01.