

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

Form #3

Do Not Mark In This Box

2011 AUG -3 AM 10:16

OFFICE OF THE CLERK
SECRETARY OF STATE

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

AGENCY: WV Board of Registration for Foresters TITLE NUMBER: 200

CITE AUTHORITY: _____

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: 200-Certification of Registered Foresters

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: 7/29/11

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Board of Registration for Foresters, PO Box 1032,
Ripley, WV 25271, 304-415-3952

LEGISLATIVE RULE TITLE: Title 200 Series 1-Certification of Registered Foresters

1. Authorizing statute(s) citation Chapter 30 Article 19

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

June 28, 2011

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

Information was posted on website to notify our registrants.

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

July 29, 2011

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

Attached _____ No comments received _____ None received _____

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

August 1, 2011

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

Cinda Francis, PO Box 1032, Ripley, WV 25271, 304-415-3952, fax:
304-372-1957; wvborf@wirefire.com

- 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)

same as above

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.

~~does not apply~~

b. Date of hearing or comment period:

Comment period: June 29-July 29, 2011

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

June 28, 2011

d. Attach findings and determinations and reasons:

Attached attached

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Title 200 Series 1 - Certification of Registered Foresters

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: WV Board of Registration for Foresters

Address: PO Box 1032, Ripley, WV 25271

Phone Number: 304-415-3952 Email: wvborf@wirefire.com

Fiscal Note Summary

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

This Rule has no costs or revenues attached and therefore will have no impact on the financial resources of the Board of Foresters.

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.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Title 200 Series 1 - Certification of Registered Foresters

Rule Title: _____

Rule Title: _____

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

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

There will be no increase or decrease in the financial resources of the Board as a result of this Rule.

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.

n/a

Date: Aug. 1, 2011

Signature of Agency Head or Authorized Representative

Cende B. James

TITLE 200
LEGISLATIVE RULE
STATE BOARD OF REGISTRATION OF FORESTERS
SERIES 1
CERTIFICATION OF REGISTERED FORESTERS

SECRETARY OF STATE

§200-1-1. General.

1.1. Scope. -- This legislative rule establishes the various fees that are to be submitted to the State Board of Registration of Foresters.

1.2. Authority. -- W. Va. Code §30-19-6.

1.3. Filing Date. --

1.4. Effective Date. --

§200-1-2. Definitions.

As used in these rules, the following words and terms have the following meanings:

2.1 "Board" means the State Board of Registration of Foresters.

2.2 "Certificate" means a certificate issued to practice as a registered forester or registered forestry technician.

2.3 "Certification" means a certificate issued under the provisions of this article.

2.4 "Certified" means a person holding a certification issued under the provisions of this article.

2.5 "Forester" means a person who has acquired specialized forestry training by reason of his or her knowledge of the natural sciences, mathematics, silviculture, forest protection, forest management, forest economics and forest utilization, acquired by professional forestry education and practical experience.

2.6 "Forester-in-training" or "Forestry technician-in-training" means a person who possesses the necessary educational qualifications as prescribed in this article for certification, but who has not completed the experience requirements in the field of forestry as required for certification.

2.7 "Forestry" means the professional practice embracing the science, business, and the art of creating, conserving and managing forests and forestlands for the sustained use and enjoyment of their resources, material or other forest produce.

2.8 "Practice of forestry" means professional forestry services, including the consultation, investigation, evaluation, planning or responsible supervision of any forestry activities when such professional service

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requires the application of forestry principles and techniques.

2.9 "Permit" means a document issued as evidence of qualification to practice as a forester-in-training or forestry technician-in-training under this article.

2.10 "Permitee" means a person holding a permit issued under the provisions of this article.

2.11 "Registered Forester" means a forester certified under this article.

2.10 "Registered Forestry Technician" means a forestry technician certified under this article.

§200-1-3. Applications.

3.1. The applicant must complete the application form provided by the Board and supply the following:

3.1.a. Personal information;

3.1.b. Educational information;

3.1.c. Qualifying work experience;

3.1.d. License verification (s) from other State Licensing Boards (if applicable);

3.1.e. Written responses to questions regarding criminal offenses;

3.1.f. Written responses to questions regarding child support obligations;

3.1.g. Applicable fee(s) as provided in 200 CSR 4.

§200-1-4. Qualifying Experience.

4.1. Qualifying work experience acceptable to the board shall be:

Employment on a full-time basis, or, at the discretion of the board, equivalent part-time experience, with:

4.1(a) A business that provides professional forestry services, that is in good standing with respect to all lawful obligations imposed by state and federal law, that employs at least one registered forester in a supervisory position in West Virginia or

4.1(b) A unit of the state or federal government that provides professional forestry services and employs at least one registered forester in a supervisory position in West Virginia; and

4.2. Actual job responsibilities, under the supervision of or in consultation with a registered forester, that include, on a regular basis, at least four of the following:

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4.2.a Consultation with respect to forestry activities;

4.2.b Investigation of forestry activities;

4.2.c Planning of forestry activities, which may include the laying out of roads, developing prescriptions, and selecting acreage or individual trees for present or future timber harvesting and/or timber resource preservation and management;

4.2.d Evaluation of forestry activities; and

4.2.e Responsible supervision of forestry activities.

4.3. Forms of Proof. Proof of qualifying experience includes:

4.3.a. Verification of experience on a form provided by the board and signed by the applicant listing the dates of all qualifying experience; or verification from the employer by signed letter containing the same information. A verification by letter shall contain sufficient employer identifying information to permit a check on the employer's standing with respect to lawful state and federal obligations.

4.3.b. Verification of experience on a form provided by the board shall be signed by at least three professional foresters who have knowledge of the applicant's actual job duties, indicating the actual job duties performed by the applicant, or the equivalent information provided in a signed letter.

§200-1-4. Examination Scores.

4.1. An applicant to be certified as a registered forester must take the examination as required by the board and obtain a passing score as determined by the Board.

§200-1-5. Licensure.

5.1. Issuance. When the board has determined that an applicant for registration has satisfied the certification standards set forth in this rule, the board shall issue a certification containing the registered forester's or forestry technician's name and license number.

5.2. Renewal. A registered forester or forestry technician who desires to continue in active practice shall, annually, on or before the July 1st, complete a renewal application, pay a renewal fee and maintain proof of acquisition of all required continuing education hours for random audit.

5.3. Renewal fees shall be paid by check or money order made payable to the State Board of Registration of Foresters.

5.4. Upon receipt of the application and renewal fee the secretary shall issue an renewal certificate card bearing the number of the license, the year for which renewed and any other information the board considers necessary.

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5.5. When a registered forester or forestry technician has failed to pay his or her renewal fee by July 1st of that year, it is the duty of the secretary to notify the registered forester or forestry technician by mail at his or her last known address that the fee is due and unpaid and cite the penalties of using the title without the renewal.

5.6. The secretary of the Board shall make every effort to notify all registered forester or forestry technician that they are required to renew their certification. Failure to receive the notification does not relieve a registered forester or forestry technician of the duty to renew his or her certification.

5.7. A certification not renewed by with no specific request to place it in "inactive" status will automatically "delinquent".

5.8. A certification is not transferable.

5.9. In the event of the denial, revocation, cancellation, suspension or non-renewal of any license, the registered forester or forestry technician shall immediately return the certificate of registration to the board. The applicant or licensee may appeal the board's decision and the board shall conduct an appeal hearing.

5.10. Reinstatement of delinquent certificate: In the event that a registered forester or forestry technician fails to renew following the expiration date of his or her certificate, the board shall declare the registered forester or forestry technician delinquent and shall charge a delinquent fee for reinstatement of the certification. In no case shall the charge for reinstatement exceed the cost of initial registration. The board shall not include delinquent license holders whose renewal fee is unpaid as of October 1 in the published roster of members for the ensuing year.

§200-1-6. Temporary Permit.

6.1. An applicant for certification as a registered forester who has completed the minimum educational requirements may file an application for a temporary permit pending completion of the work experience requirements. Upon receipt of the application and fee and acceptance by the board, the board shall issue an identification card certifying that the applicant is a graduate forester who is working toward eligibility for certification as a registered forester in West Virginia. The board shall take final action leading to the issuing of a certificate of registration at the first regular board meeting following completion of the minimum experience requirements.

6.2. An applicant for certification as a registered forestry technician who has completed the minimum educational requirements may file an application for a temporary permit pending completion of the work experience requirements. Upon receipt of the application and license fee and acceptance by the board, the board shall issue an identification card certifying that the applicant is a graduate forestry technician who is working toward eligibility for licensing as a registered forestry technician in West Virginia. The board shall take final action leading to the issuing of a license and certificate of registration at the first regular board meeting following completion of the minimum experience requirements.

§200-1-7. Approved Job Titles.

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7.1. Only a person certified as a registered forester may use the job titles registered professional forester, professional forester, forester or any other title connoting to the general public that the applicant is a registered forester qualified to perform professional forestry services,

7.2 Only a person certified as a registered forestry technician may use the job titles registered forestry technician or forestry technician.

7.3 The board may at its discretion issue a warning letter when cases of inappropriate use of job titles are brought to its attention and may at any time refer cases for prosecution under W. Va. Code §30-19-10 or apply for injunctive relief as authorized under W. Va. Code §30-1-5.

§200-1-8. General Provisions.

8.1. The board shall hold two regular meetings each year. The board may hold any additional necessary meetings, which shall be called by the secretary at the direction of the president or upon the written request of any three members.

8.2. A majority of members of the board constitute a quorum for the transaction of its business.

8.3. The seal of the board shall be affixed to all licenses or certificates of registration issued by it. The seal shall be two (2) inches in diameter and shall contain the words "state board of registration for foresters" and the state of West Virginia seal.

8.4. The president shall, when present, preside at all meetings, shall appoint all committees, and shall attest all certificates of registration.

8.6. The secretary shall receive and account for all monies in accordance with the West Virginia Code and shall attest all certificates of registrations. A record of the board's proceedings shall be kept, as well as other records required by law.

8.7. Robert's rules of order shall govern the procedure of the board when they are not in conflict with the provisions of the board's by-laws or the West Virginia Code.

8.8. A majority vote of the board members shall govern the action of the board. The presiding officer shall vote on any motion presented before the board. If only three members are present, then a unanimous vote is required on any matter presented to the board for official action.

§200-1-9. Continuing forestry education.

9.1. To renew a license, in addition to all other requirements, a registered forester or forestry technician shall attend ten hours of continuing forestry education for each twelve month period since the last renewal or initial registration, as the case may be, unless he or she is exempt from these continuing professional development requirements, as provided in subdivision 9.4 of this subsection. The board shall not renew a license if the registered forester or forestry technician fails to comply with these requirements.

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9.2. Continuing forestry education hours must be recognized by the Society of American Foresters, a college or university approved by the Society of American Foresters or by the board. One hour of technical forestry instruction is equal to one hour of continuing forestry education. Continuing forestry education hours may not carry over for any twelve month period to a subsequent twelve month period.

9.3. Reporting and record keeping. A registered forester or forestry technician shall complete and submit the forms prescribed or accepted by the board certifying the continuing forestry education hours. Forms may be audited by the board for verification of compliance. If the board disallows any continuing forestry education hours, then the registered forester or forestry technician has six months from notice of the disallowance either to provide further evidence of having acquired the hours disallowed or to remedy the disallowance by acquiring the required hours. A registered forester or forestry technician may not use hours acquired to remedy a disallowance to fulfill continuing forestry education requirements for the next renewal period.

9.4. Exemptions. A registered forester or forestry technician is not subject to requirements of subsection 9.1. of this section if:

(a) the registered forester or forestry technician has been granted emeritus or other similar honorific but inactive status by the board or

(b) the registered forester or forestry technician otherwise meets all renewal requirements and is a civilian called to active duty in the armed forces of the United States, is ill or disabled for a significant period of time or can demonstrate to the board another similar hardship.

9.5. The board shall provide forms to be used for reporting compliance with continuing forestry education hours.