

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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JUN 30 8 45 AM '99

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative; CITE AUTHORITY WV Code 30-1-4 and 30-19-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Registration of Foresters

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 2, 1999 AT 8:30 a.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

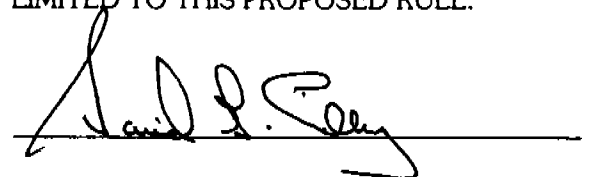
David G. Lilly

WV Board of Registration for Foresters

8 Kepner Street

Buckhannon, WV 26201

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$4.00

22CSR5

**TITLE 22
LEGISLATIVE RULE
STATE BOARD OF REGISTRATION FOR FORESTERS**

**SERIES 5
REGISTRATION OF FORESTERS**

Scope and Purpose. -- This rule of the state board of registration for foresters is for the purpose of interpreting and implementing W. Va. Code §30-19-1 et. seq., establishing the Board and conferring upon it responsibility for the registration of foresters and the regulation of the practice of professional forestry.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Registration of Foresters

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency: State Board of Registration for Foresters

Address: 8 Kepner Street
Buckhannon, WV 26201

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	FEE	HEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE	500.00±		0	500.00±	500.00±
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

The increase in the application fee from \$25.00 to \$50.00 would generate approximately \$500.00 annually, estimating about 20 new individuals will apply for licensing. The current application fee does not fully cover the board's processing of the application, reference checks, and preparation of the certificate and plaque that goes with licensing.

3. Objectives of these rules:

These rules are for the purpose of interpreting and implementing WV Code 30-19-1; et.seq., establishing the board and conferring upon it responsibility for the registration of foresters and the regulation of the practice of professional forestry.

Rule Title: Registration of Foresters

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Better management and protection of the state's forest resources by licensing only qualified, professional forest resource managers.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.


Professional management of the state's forest resources to ensure the perpetuation of this renewable resource for timber products, wildlife, recreation, water quality and aesthetics.

C. Economic Impact on Citizens/Public at Large.

Stewardship of the forest resource safeguards the many facets of the forest to provide the wood products for homes, the recreation for leisure time, the water quality for life and the scenic beauty of the state.

Date: June 30, 1999

Signature of Agency Head or Authorized Representative



FILED

JUN 30 8 10 AM '99

OFFICE OF THE SECRETARY OF STATE

**TITLE 22
LEGISLATIVE RULE
STATE BOARD OF REGISTRATION FOR FORESTERS**

**SERIES 5
REGISTRATION OF FORESTERS**

§22-5-1. General.

1.1. Scope and Purpose. -- This rule of the state board of registration for foresters is for the purpose of interpreting and implementing W. Va. Code §30-19-1 et. seq., establishing the Board and conferring upon it responsibility for the registration of foresters and the regulation of the practice of professional forestry.

1.2. Authority. -- W. Va. Code §30-1-4 and §30-19-6.

1.3. Filing Date. --

1.4. Effective Date. --

§22-5-2. Qualifying experience.

2.1. Registered professional forester - - An applicant for registration relating to the qualification and registration of professional foresters must have (1) a bachelor's degree in forestry from a four-year school, college or university accredited by the society of American foresters and/or approved by the board and at least two year's of full-time equivalent work experience as a professional forester within the ten years preceding the date of filing an application for registration; or (2) a master's degree in forestry, which is expressly found to fulfill or exceed the requirement of a bachelor's degree, fulfilling course work required for accreditation by the society of American foresters from a school, college or university accredited by the society of American forester and/or approved by the board and at least two years of full-time equivalent work experience as a professional forester within the ten years preceding the date of filing an application for registration; or (3) an associate's degree from a two-year technical forestry program recognized by the society of American foresters, in conjunction with a recognized two (2) plus two (2) program from an accredited college or university, and at least four years of full-time equivalent work experience in the field of forestry acceptable to the board within the ten years preceding the date of filing an application for registration; or (4) an associate's degree from a two-year technical forestry program recognized by the society of American foresters plus a bachelor's degree in another natural science or related field and at least four years of full-time equivalent work experience in the field of forestry acceptable to the board within the ten years preceding the date of filing an application for registration.

Registered forestry technician - - An applicant for registration relating to the qualifications and registration of professional forestry technician must have an associate's degree from a two (2) year technical forestry program recognized by the society of American foresters and at least four (4) years of full-time equivalent work experience in the field of forestry acceptable to the board within the ten years preceding the date of filing an application for registration.

2.1.a. Qualifying experience acceptable to the board is employment that includes both of the following: Employment on a full-time salaried basis, or, at the discretion of the board, equivalent part-time experience, with (1)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 professional forester

or (2) a unit of the state or federal government that employs at least one registered professional forester; and

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

2.1.b.1. Consultation with respect to forestry activities;

2.1.b.2. Investigation of forestry activities;

2.1.b.3. 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;

2.1.b.4. Evaluation of forestry activities; and

2.1.b.5 Responsible supervision of forestry activities.

2.2. Forms of Proof. -- Proof of qualifying experience includes:

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

2.2.b. Verification on a form provided by the board, signed by at least three (3) professional foresters who has 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.

§22-5-3. Approved job titles.

3.1. A candidate for licensure as a registered professional forester who has completed the minimum educational requirements may file an application pending completion of the experience requirements. Upon receipt of the application and license fee and acceptance by the board, an identification card will be issued certifying that the applicant is a graduate forester who is working toward eligibility for licensing as a registered professional forester in West Virginia. Final action leading to the issuing of a license and certificate of registration will be taken at the first regular board meeting following completion of the minimum experience requirements. A graduate forester employed in the classified service of the state and classified as a Forester I or a forester trainee, who is obtaining qualifying experience for licensure as a registered professional forester may use the title Forester I or forester trainee.

3.2. A candidate for licensure as a registered forestry technician who has completed the minimum educational requirements may file an application pending completion of the experience requirements. Upon receipt of the application and license fee and acceptance by the board, an identification card will be issued certifying that the applicant is a graduate forestry technician who is working toward eligibility for licensing as a registered forestry technician in West Virginia. Final action leading to the issuing of a license and certificate of registration will be taken at the first regular board meeting following completion of the minimum experience requirements. A graduate forestry technician employed in the classified service of the state and classified as a forest ranger who is obtaining qualifying experience for licensure as a registered forestry technician may use the title forest ranger.

3.3. Except as specifically permitted in this section, no person other than a person duly licensed as a

registered professional 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, and no person other than a duly licensed registered forestry technician may use the job titles registered forestry technician or forestry technician. The board may in 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.

§22-5-4. General provisions.

4.1. The name of this board shall be the state board of registration for foresters. It shall be hereinafter referred to as the board.

4.2. The board shall hold two regular meetings each year in the city of Charleston, West Virginia, or at such other places as may be designated from time to time. One shall be on the second Thursday in April and the other the second Thursday in October. The board may hold such additional meetings as may be necessary, which shall be called by the secretary at the direction of the president or upon the written request of any three members.

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

4.4. At a regular meeting in April of each year the board shall elect a president and a secretary, who shall hold their offices for one year and until their successors are elected.

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

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

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

4.8. The order of business of the board shall be as follows:

- (a) call meeting to order
- (b) reading of minutes
- (c) communications (written or oral)
- (d) committee reports
- (e) unfinished business
- (f) new business
- (g) adjournment

4.9. Robert's rules of order shall govern the procedure of the board when not in conflict with the provisions of the by-laws or statutes.

4.10. 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 (3) members are present, then a unanimous vote will be required on any matter presented to the board for official action.

4.11. All authorized compensation and all expenses certified by the board as properly and necessarily incurred in the discharge of its duties shall be paid out of the state treasury, from funds appropriated for that purpose, on warrants of the state auditor issued on requisitions signed by the president or secretary of the board.

§ 22-5-5. Registration

5.1. Issuance. - - When the board has determined that an applicant for registration has satisfied the registration standards set forth in this rule, the board shall issue a certificate of registration containing the registered applicant's name and registration number.

5.2. Duration. - - Each certificate of registration issued by the board is valid for one (1) year.

5.3. Renewal. - - The terms for renewal of a certificate of registration shall be in accordance with W. Va. Code §30-19-7.

5.3.a. Continuing forestry education. - - To renew registration, in addition to all other requirements, a registered professional forester or forestry technician shall attend ten (10) hours of continuing forestry education for each twelve (12) month period since the last renewal or initial registration, as the case may be, or be exempt from these continuing professional development requirements, as provided in this subsection. The board shall not renew registration if the registered professional forester or forestry technician fails to comply with these requirements.

5.3.b. 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. Continuing forestry education hours may not carry over for any twelve (12) month period to a subsequent twelve (12) month period.

5.3.c. Reporting and record keeping. - - A registered professional forester or forestry technician shall complete and submit on forms prescribed or accepted by the board certifying the continuing forestry education hours. Forms may be audited by the board for verification of compliance with the requirements. If the board disallows any continuing forestry education hours, unless the board finds following a notice and hearing that the registered professional forester or forestry technician willfully disregarded the requirements of subdivision 5.3.b. then the registered professional forester or forestry technician has six (6) 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 units. Hours acquired to remedy a disallowance may not be used to fulfill continuing forestry education requirements for the next renewal period.

5.3.d. Exemptions. - - A registered professional forester or forestry technician is not subject to requirements of subdivision 5.3.a.

5.3.d.1. The registered professional forester or forestry technician has been granted emeritus or other similar honorific but inactive status by the board.

5.3.d.2. The registered professional 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.

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

5.3.f. A certificate of registration is not transferable.

5.3.g. In the event of the denial, revocation, cancellation, suspension or non-renewal of any certificate of registration, the registered professional forester or forestry technician shall immediately return the certificate of registration to the board. The applicant or licensee may appeal and the board shall conduct an appeal.

5.3.h. Reinstatement of delinquent registrants: In the event that a registered forester shall fail to pay the annual renewal fee for a period of ninety (90) days following the expiration date of his license, he or she shall be declared delinquent and an additional charge of three dollars (\$3.00) shall be charged for reinstatement of the registration and an additional five dollars (\$5.00) for each additional twelve (12) month period of delinquency, but in no case shall the charge for reinstatement exceed the cost of initial registration. Delinquent registrants whose renewal fee is unpaid as of October 1 will not be included in the published roster of registered foresters for the ensuing year.

5.4. The applicant shall pay a non-refundable fee with the application for registration in the amount of fifty dollars (\$50.00).

5.5. The applicant shall pay the board an annual renewal fee as stipulated in W. Va. Code §30-19-7. The renewal fee upon the effective date of this rule shall initially be fifteen dollars (\$15.00), but may be increased by the board thereafter as provided in that section.

§22-5-6. Code of ethics.

6.1. The board recognizes that principles for professional conduct are required for registered professional foresters and forestry technicians to ensure confidence, respect and integrity in the forestry profession. The board adopts as a basis for its standards the national code of ethics of the society of American foresters. Stewardship of the land is the cornerstone of the forestry profession. The purpose of these canons is to serve as the guiding principles for conduct for registered professional foresters and forestry technicians operating under the laws of West Virginia in their relations with each other, their employers, the public, and other professionals. All registered professional foresters and forestry technicians agree to abide by this code as a condition of registration.

6.1.a. A registered professional forester or forestry technician will advocate and practice land management consistent with ecologically sound principles.

6.1.b. A registered professional forester or forestry technician's knowledge and skills will be utilized for the benefit of society. A member will strive for accurate, current and increasing knowledge of forestry, will communicate such knowledge when not confidential, and will challenge and correct untrue statements about forestry.

6.1.c. A registered professional forester or forestry technician will advertise only in a dignified and truthful manner, stating the services the member is qualified and prepared to perform. Such advertisements may include references to fees charged.

6.1.d. A registered professional forester or forestry technician will base public comment on forestry matters on accurate knowledge and will not distort or withhold pertinent information to substantiate a point of view. Prior to making public statements on forest policies and practices, a member will indicate on whose behalf the statements are made.

6.1.e. A registered professional forester or forestry technician will perform services consistent with the

highest standards of quality and with loyalty to the employer.

6.1.f. A registered professional forester or forestry technician will perform only those services for which the member is qualified by education or experience.

6.1.g. A registered professional forester or forestry technician who is asked to participate in forestry operations which deviate from accepted professional standards must advise the employer in advance of the consequences of such deviation.

6.1.h. A registered professional forester or forestry technician will not voluntarily disclose information concerning the affairs of the member's employer without the employer's express permission or except as may be required by state or federal law or a court of competent jurisdiction.

6.1.i. A registered professional forester or forestry technician must avoid conflicts of interest or even the appearance of such conflicts. If, despite such precaution, a conflict of interest is discovered, it must be promptly and fully disclosed to the member's employer and the member must be prepared to act immediately to resolve the conflict.

6.1.j. A registered professional forester or forestry technician will not accept compensation or expenses from more than one employer for the same service, unless the parties involved are informed and consent.

6.1.k. A registered professional forester or forestry technician will engage, or advise the member's employer to engage, other experts and specialists in forestry or related fields whenever the employer's interest would be best served by such action, and members will work cooperatively with other professionals.

6.1.l. A registered professional forester or forestry technician will not by false statement or dishonest action injure the reputation or professional associations of another member.

6.1.m. A registered professional forester or forestry technician will give credit for the methods, ideas, or assistance obtained from others.

6.1.n. A registered professional forester or forestry technician in competition for supplying forestry services will encourage the prospective employer to base selection on comparison of qualifications and negotiation of fee or salary.

6.1.o. Information submitted by a registered professional forester or forestry technician about a candidate for a prospective position, award, or elected office will be accurate, factual, and objective.

6.1.p. A registered professional forester or forestry technician having evidence of violation of these canons by another member will present the information and charges to the board.

6.2. Proposed amendments to the code of ethics must be adopted by unanimous vote of the board members at any meeting at which there is a quorum present. Proposed amendments are subject to the rule making process as set forth in W. Va. Code §29A-3-1, et seq.