



**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee**

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September 15, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: David G. Lilly  
WV Board of Registration for Foresters  
8 Kepner Street  
Buckhannon, WV 26201

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Registration of Foresters, 200CSR1**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed
  - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
 

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3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
 

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4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
 

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5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.
 

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** State Board of Registration for Foresters

**Subject:** Registration of Foresters, 200CSR1

PERTINENT DATES

Filed for public comment: June 30, 1999  
Public comment period ended: August 2, 1999  
Filed following public comment period: August 5, 1999  
Filed LRMRC: August 5, 1999  
Filed as emergency:

Fiscal Impact: \$500 Revenue increase from fees.

OFFICE OF THE CLERK  
STATE BOARD OF REGISTRATION FOR FORESTERS  
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ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 relates to qualifying experience. It sets forth the educational experience and qualifying work experience which an applicant for registration as a professional forester or professional forestry technician must have. It also lists actual job responsibilities which must be included in the qualifying work experience.

Section 3 relates to approved job titles. It allows the Board to issue identification cards to applicants who have completed the minimum education requirements to be a registered professional forester or professional forestry technician, pending completion of the work experience requirements. The identification card certifies that the applicant is a graduate forester or forestry technician working toward eligibility for licensure. It states that the graduate forester or forestry technician may use the titles forester or forester trainee, or forestry technician or forestry technician trainee, as the case may be.

Section 4 relates to general provisions. It provides for meetings of the Board, including voting procedures and the order of business.

Section 5 relates to registration and licensure. It requires applicants to pay a fee of \$50 to be licensed as a licensed forester or forestry technician. It provides for renewal and late fees. This section also requires 10 forestry continuing education hours each year to maintain licensure.

Section 6 sets forth a code of ethics.

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#### AUTHORITY

Statutory authority: W.Va. Code, §30-19-6, which provides, in part, as follows:

...On or before the first day of July, one thousand nine hundred ninety-nine, the board shall propose for legislative approval pursuant to the provisions of article three, chapter twenty-nine-a of this code, rules authorized by this article and article one of this chapter, which rules must include provisions relating to a code of ethics for registered professional foresters and registered forestry technicians.

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#### ANALYSIS

##### I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

Possibly. The statute provides two educational routes to licensure, those being graduation from a 4-year degree program in professional forestry or graduation from a 2-year technical forestry program plus a bachelor degree. The proposed rule provides a third alternative which is a masters degree in forestry which is found to fulfill or exceed the requirement of a bachelor degree in forestry. This option is not provided for in the statute.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

Yes. Section 3 would allow candidates for licensure who are certified as graduate foresters or forestry technicians to use the title forester or forestry technician. W.Va. Code 30-19-6 specifically limits those titles to persons who are licensed. Additionally, subsection 3.3 of the proposed rule states that no person may use the title forester or forestry technician unless they are duly licensed.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

No. It did not contain a statement of circumstances requiring the proposed rule as required by statute.

VIII. OTHER.

Counsel has technical modifications to suggest.