

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

SEP 26 1 55 PM '99

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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

CITE AUTHORITY WV Code §30-1-4 and §30-19-6

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

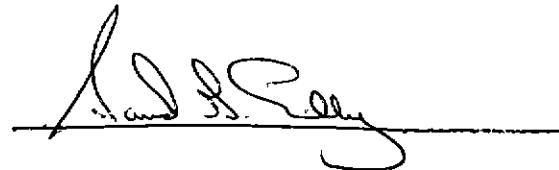
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 1 (200CSR1)

TITLE OF RULE BEING PROPOSED: Registration of Foresters

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



TITLE 200
LEGISLATIVE RULE
STATE BOARD OF REGISTRATION FOR FORESTERS

SEP 20 1 58 PM '99
OFFICE OF THE CLERK OF THE SENATE
STATE OF WEST VIRGINIA

SERIES 1
REGISTRATION OF FORESTERS

§200-1-1. 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. --

§200-1-2. Qualifying experience.

2.1. Registered forester. An applicant for registration as a forester shall have (1) a bachelor's degree in forestry from a four (4) year school, college or university accredited by the Society of American Foresters and at least two (2) years of full-time equivalent work experience as a professional forester within the ten (10) years preceding the date of filing an application for registration; or (2) an associate's degree from a two (2) year technical forestry program recognized by the Society of American Foresters plus a bachelor's degree in another natural science or business and at least four (4) years of full-time equivalent work experience in the field of forestry acceptable to the board within the ten (10) years preceding the date of filing an application for registration.

2.2. Registered forestry technician. An applicant for registration as a 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 (10) years preceding the date of filing an application for registration.

2.3. 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 (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 (1) registered forester in a supervisory position in West Virginia or (2) a unit of the state or federal government that provides professional forestry services and employs at least one (1) registered forester in a supervisory position in West Virginia; and

2.3.a. Actual job responsibilities, under the supervision of or in consultation with a registered forester, that include, on a regular basis, at least four (4) of the following:

2.3.a.1. Consultation with respect to forestry activities;

2.3.a.2. Investigation of forestry activities;

2.3.a.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;

2.3.a.4. Evaluation of forestry activities; and

2.3.a.5. Responsible supervision of forestry activities.

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

2.4.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.

2.4.b. Verification of experience on a form provided by the board shall be signed by at least three (3) 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.

§200-1-3. Approved job titles.

3.1. A candidate for licensure as a registered forester who has completed the minimum educational requirements may file an application for licensure 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 forester who is working toward eligibility for licensing as a registered forester 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.

3.2. A candidate for licensure as a registered forestry technician who has completed the minimum educational requirements may file an application for licensure 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.

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

§200-1-4. General provisions.

4.1. The board shall hold two (2) 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 meeting shall be on the second Thursday in April and the other the second Thursday in October. 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 (3) members.

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

4.3. 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.

4.4. 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.

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

4.6. 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.

4.7. 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.

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

4.9. 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.

§ 200-1-5. Licensure.

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 forester's or forestry technician's name and license number.

5.2. Duration. Each certificate of registration issued by the board is valid for as long as the registrant renews his or her license.

5.3. Renewal. A registered forester or forestry technician shall renew his or her license in accordance with W. Va. Code §30-19-7.

5.3.a. Continuing forestry education. To renew a license, in addition to all other requirements, a registered 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, unless he or she is exempt from these continuing professional development requirements, as provided in subdivision 5.3.d. of this subsection. The board shall not renew a license if the registered 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. One (1) hour of technical forestry instruction is equal to one (1) hour of continuing forestry education. 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 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 (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 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.

5.3.d. Exemptions. A registered forester or forestry technician is not subject to requirements of subdivision 5.3.a. of this subsection if (1) the registered forester or forestry technician has been granted emeritus or other similar honorific but inactive status by the board or (2) 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.

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

5.3.f. A license is not transferable.

5.3.g. 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.

5.3.h. Reinstatement of delinquent registrants: In the event that a registered forester or forestry technician fails to pay the annual renewal fee for a period of ninety (90) days following the expiration date of his or her license, the board shall declare the registered forester or forestry technician delinquent and shall charge an addition three dollars (\$3.00) for reinstatement of the license and an additional five dollars (\$5.00) for each additional twelve (12) month period of delinquency. 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.

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 is fifteen dollars (\$15.00), but may be increased by the board thereafter in five dollar (\$5.00) increments as provided in W. Va. Code §30-19-7.

§200-1-6. Code of ethics.

6.1. The board recognizes that principles for professional conduct are required for registered 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 this code is to serve

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as the guiding principles for conduct for registered 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 foresters and forestry technicians agree to abide by this code as a condition of registration.

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

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

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

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

6.1.e. A registered forester or forestry technician shall perform services consistent with the highest standards of quality and with loyalty to the employer.

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

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

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

6.1.j. A registered forester or forestry technician shall 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 forester or forestry technician shall 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 that action, and members shall work cooperatively with other professionals.

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

6.1.m. A registered forester or forestry technician shall give credit for the methods, ideas, or assistance

obtained from others.

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

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

6.1.p. A registered forester or forestry technician having evidence of violation of this section by another member shall present the information and charges to the board.

6.2. Proposed amendments to the code of ethics shall 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.